

## **MINUTES OF THE CITY COUNCIL**

**SAN JOSÉ, CALIFORNIA**

**TUESDAY, JUNE 19, 2007**

The Council of the City of San José convened in regular session at 9:00 a.m. in the Council Chambers at City Hall.

Present: Council Members - Campos, Chirco, Constant, Cortese, Liccardo, Nguyen, Oliverio, Pyle, Williams; Reed.

Absent: Council Members - None.

Vacant: - Council District 4.

Upon motion unanimously adopted, Council recessed at 9:00 a.m. to a Closed Session in Room W133, (A) to confer with Legal Counsel pursuant to Government Code Section 54956.9 subsection (a) with respect to existing litigation to consider the case of: (1) Callaway v. City of San José, et al.; (2) In Re Carable; (3) D&K Painting Company, Inc. v. City of San José, et al. (B) to confer with Legal Counsel pursuant to: Government Code Section 54956.9 with respect to anticipated litigation, (1) subsection (b), initiation of litigation in one (1) matter; (2), subsection (c) with significant exposure in one (1) matter. (C) Public Employee Performance Evaluation Pursuant to Government Code Section 54957: Title: City Auditor. (D) to confer with Labor Negotiator pursuant to Government Code Section 54957.6: City Negotiator: City Manager Designee Alex Gurza; Employee Organizations: (1) Association of Engineers & Architects, IFPTE, Local 21; (2) Association of Building, Mechanical and Electrical Inspectors.

By unanimous consent, Council recessed from the Closed Session at 10:15 a.m. and reconvened at 1:39 p.m. in the Council Chambers.

Present: Council Members - Campos, Chirco, Chu, Constant, Cortese, Liccardo, Nguyen, Oliverio, Pyle, Williams; Reed.

Absent: Council Members - None.

## **INVOCATION**

Father Mark Arnzen, St. Martins presented a prayer. (District 6)

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## PLEDGE OF ALLEGIANCE

Mayor Reed led the Pledge of Allegiance.

## ORDERS OF THE DAY

Upon motion by Council Member Williams, seconded by Council Member Campos and carried unanimously, the Orders of the Day and the Amended Agenda were approved, with Items 1.1, 3.1, 3.2 and 4.8 deferred to June 26, 2007 and Item 3.4(a)(b) dropped at the request of the Association of Retired San José Police Officers and Firefighters. (10-0.)

## STRATEGIC SUPPORT SERVICES

- 3.10 (a) Adoption of a resolution declaring the results of the June 5, 2007 Municipal Runoff Election for Council District 4.**  
**(b) Administration of the Oath of Office to Council Member-Elect Kansen Chu to serve the unexpired term in District 4, ending December 31, 2008. (Mayor)**

Documents Filed: (1) Memorandum from Mayor Reed, dated June 6, 2007, recommending the appointment of Council Member Elect Chu. (2) Memorandum from City Clerk Lee Price, dated June 14, 2007, recommending adoption of a resolution and administration of Oath of Office to Council Member Elect Chu.

Action: Upon motion by Council Member Campos, seconded by Council Member Liccardo and carried unanimously, [Resolution No. 73836](#), entitled: “A Resolution of the Council of the City of San José Reciting that a Special Municipal Run-off Election was Held in the City of San José on Tuesday, June 5, 2007; Stating the Office to be Filled at the Election; Finding and Declaring that the Registrar of Voters of the County of Santa Clara has Canvassed the Returns of the Election and Confirming the Results of the Canvass; Stating the Whole Number of Votes Cast, the Name of the Persons Voted for, the Office of the Persons were Voted for, the Number of Votes Given at Each Precinct to Each Person; Finding and Declaring that Kansen Chu Received the Highest Number of Votes of the Votes Cast in District 4”, were adopted, and City Clerk Lee Price administered the Oath of Office to Council Member-Elect Chu. (10-0.)

## COMMUNITY & ECONOMIC DEVELOPMENT

- 4.8 Acceptance of the proposed work plan to update the Evergreen Development Policy consistent with the Council’s actions on May 15, 2007, and provide input on phasing/trigger options. CEQA: Not a Project. Council Districts 5, 7 and 8. SNI: West Evergreen/K.O.N.A/East Valley/680. (Planning, Building and Code Enforcement)**

#### **4.8 (Cont'd.)**

Public Comments: Bonnie Mace expressed support for the deferral of this item until after the Legislative recess.

Action: Upon motion by Vice Mayor Cortese, seconded by Council Member Nguyen and carried unanimously, the acceptance of the proposed work plan to update the Evergreen Development Policy was deferred to June 26, 2007, per Orders of the Day. (11-0.)

### **CEREMONIAL ITEMS**

#### **1.1 Presentation of a commendation to the Mt. Pleasant High School girls track team upon winning the State Track and Field Championship. (Campos)**

Action: Deferred to June 26, 2007, per Orders of the Day.

#### **1.3 Presentation of a commendation to Neighborhood Housing Services for their dedication to providing programs such as the Affordable Housing Resource Fair, and services that promote and support responsible home ownership as a means of revitalizing neighborhoods, engendering community pride and economic stability among residents. (Liccardo)**

Action: Mayor Reed and Council Member Liccardo recognized and commended the Neighborhood Housing Services for their dedication in providing programs to the City of San José residents.

#### **1.4 Presentation of commendations to Principals Lisa Gonzales and Linda Herschbach for their strong commitment to education in the San José Unified School District. (Liccardo)**

Action: Mayor Reed and Council Member Liccardo recognized and commended Principals Gonzales and Herschbach for their commitment to education.

### **ENVIRONMENTAL AND UTILITY SERVICES**

#### **7.6 Adoption of a resolution increasing the San José Municipal Water System (SJMWS) potable water rates and charges by 7.3% effective July 1, 2007. CEQA: Not a Project. Council District 2, 4, 7 and 8. (Environmental Services)**

Public Comments: Steve Bennette objected to the water rate increase and donations by the Water Company to events such as the San José Grand Prix. He also expressed opposition to the consolidated billing for water and trash, stating that Evergreen residents deserve a rebate.

Action: Upon motion by Council Member Constant, seconded by Council Member Chirco and carried unanimously, Item 7.6 was deferred to June 26, 2007. (11-0.)

- 7.5 (a) **Public hearing on proposed FY 2007-08 Sanitary Sewer Service and Use Charges and Storm Sewer Service Charges and proposed maximums for rate increases in FY's 2008-09 and 2009-10; and direct staff to return during the FY 2008-09 and 2009-10 budget cycles with recommendations for rate increases in FY 2008-09 and 2009-10 consistent with staff recommended maximum rate increases for those years.**
- (b) **Adoption of a resolution setting Sanitary Sewer Service and Use Charge rates for FY 2007-08 to reflect the rates in the staff report and public notices.**
- (c) **Adoption of a resolution setting Storm Sewer Service Charges rates for FY 2007-08 to reflect the proposed rates in the staff report and public notices.**
- CEQA: Not a Project. (Environmental Services)**

Documents Filed: (1) Memorandum from Director of Environmental Services John Stufflean, dated May 30, 2007, recommending holding a public hearing and adoption of a resolution. (2) Supplemental memorandum from Director of Environmental Services John Stufflean, dated June 14, 2007, reporting on the written protests. (3) Proof of Publication of Notice of Public Hearing, executed on June 6, 2007 and June 13, 2007, submitted by the City Clerk.

Public Comments: Mayor Reed opened the public hearing. William Garbett spoke in opposition to the Staff recommendation. Brad Inamura and S.W. Shaw spoke in reference to the inequity of the fees. Mayor Reed closed the public hearing.

City Clerk Lee Price reported that the total of all written protests during the public protest period, together with the three speakers protesting the rate changes today, represents one half of one percent (0.5%) of all property owners impacted by the change in either of the sewer rates, and therefore, Council may consider Staff's recommendations for Sewer Service and Use Charge and Storm Sewer Service Charge rate increases.

Vice Mayor Cortese requested that the City Attorney respond to the concerns of the public via an information memorandum to the Company.

Director of Environmental Services John Stufflean responded to brief Council questions.

Action: Upon motion by Council Member Williams, seconded by Council Member Constant and carried unanimously, [Resolution No. 73860](#), entitled: "A Resolution of the Council of the City of San José Setting Schedules of Sanitary Sewer Service and Use Charges and Storm Sewer Service Charges for Fiscal Year 2007-2008", were adopted. (11-0.)

## STRATEGIC SUPPORT SERVICES

- 3.6 (a) **Final adoption of resolutions approving and adopting the Operating Budget for Fiscal Year 2007-2008 for the City of San José, the Capital Budget for Fiscal Year 2007-2008 for the City of San José, and the Five Year Capital Improvement Program for the Fiscal Year 2008-2012 for the City of San José.**
- (b) **Adoption of the Annual Appropriation Ordinance, including transfers and loans for Fiscal Year 2007-2008 and the Manager's Final Budget Addendum.**
- (c) **Adoption of the Annual Funding Sources Resolution for Fiscal Year 2007-2008 and the Manager's Final Budget Addendum.**
- (d) **Adoption of a resolution in compliance with Article XIIB of the Constitution of the State of California and as modified by Proposition 111 and SB 88 electing the population and inflation factors and establishing the Fiscal Year 2007-2008 Appropriation Limit.**
- (e) **Adoption of a resolution to approve a loan from the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District #5 to the Neighborhood Security Bond Fund in the amount of \$2,322,000, for a one-year term from July 1, 2007 through July 1, 2008 to be repaid from the General Fund, with interest based on the rate earned for the City's investment program.**

**CEQA: Not a Project. (City Manager's Office)**

Documents Filed: (1) Memorandum from Budget Director Larry Lisenbee, dated June 1, 2007, recommending adoption of a resolution. (2) Supplemental memorandum from Budget Director Larry Lisenbee, dated June 14, 2007, transmitting additional information regarding the various budget actions for the Fiscal Year 2007-2008. (3) See Appendix A on Page 52.

Budget Director Larry Lisenbee requested clarification of Council's actions on June 12, 2007 as they relate to amendments to the motion to approve the Mayor's June Budget Message regarding Fire Station #2 and Parks Maintenance. Clarification was provided as stated in the "Action, as follows.

Action: Upon motion by Council Member Williams, seconded by Council Member Liccardo and carried unanimously, [Ordinance No. 28071](#), entitled: "Annual Appropriation Ordinance of the City of San José for City's Fiscal Year Beginning July 1, 2007 and Ending June 30, 2008, Appropriating and Authorizing the Expenditure of Monies for the Operation of Each of the Offices, Departments and Agencies of the City During Said Fiscal Year and for Various Other Purposes and Objects for Said Fiscal year; and Providing for Transfers from Various City Funds to Other City Funds as May Be Necessary During Said Fiscal Year"; [Resolution No. 73862](#), entitled: "A Resolution of the Council of the City of San José Adopting the Estimated Sources of Funds for Fiscal Year 2007-2008"; [Resolution No. 73863](#), entitled: "A Resolution of the Council of the City of San José Electing the Population and Inflation Adjustment Factors and Establishing the 2007-2008 Appropriations Limit of the City of San José Pursuant to

### 3.6 (Cont'd.)

California Constitution Article XIII B, and Section 7900 Et Seq. of the California Government Code” and [Resolution No. 73864](#), entitled: “A Resolution of the Council of the City of San José Approving a Loan from the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District #5 to the Neighborhood Security Bond Fund to Provide Funding for the Fire Station #2 Project”, were adopted. Council clarified the following actions taken on June 12, 2007: (1) Restore from \$4,425,000 to \$6,747,000 funding for Fire Station 2 by closing the gap of \$2,322,000 with a loan from District 5 Construction and Conveyance tax and direct Staff to return to Council in 60 days with an evaluation of funding source options for repayment and a discussion about the scope of the project (effects of remodel versus rebuild). (2) Resolution No. 73832 adopted on June 12, 2007, was amended, to reduce by one third (approximately \$300,000) the ending fund balance which shall be set aside for creative park maintenance initiatives. (11-0.)

## CONSENT CALENDAR

Upon motion by Vice Mayor Cortese, seconded by Council Member Williams, and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated. (11-0.)

### 2.2 (a) **ORD. NO. 28057 – Amending Chapter 3.48 of Title 3 of the San José Municipal Code by adding Section 3.48.140 to permit loans to participants from the City of San José Deferred Compensation Plan.**

Documents Filed: Proof of Publication of the title of Ordinance No. 28057 executed on June 12, 2007, submitted by the City Clerk.

Action: [Ordinance No. 28057](#) was adopted. (11-0.)

### (b) **ORD. NO. 28059 – Rezoning certain real property situated at the north side of Southside Drive approximately 250 feet westerly of Water Street (155 Southside Drive) to R-1-8 Single Family Residence Zoning District. C07-006**

Documents Filed: Proof of Publication of the title of Ordinance No. 28059 executed on June 12, 2007, submitted by the City Clerk.

Action: [Ordinance No. 28059](#) was adopted. (11-0.)

### (c) **ORD. NO. 28060 – Rescinding Ordinance No. 27032, adopted by the City of San José on December 16, 2003, rezoning certain real property located at the south-easterly corner of Blossom Hill Road and Cottle Road (5600 Cottle Road) to IP(PD) Planned Development Zoning District.**

Documents Filed: Proof of Publication of the title of Ordinance No. 28060 executed on June 15, 2007, submitted by the City Clerk.

2.2 (c) (Cont'd.)

Public Comments: William Garbett spoke in opposition to the Staff recommendation.

Action: Upon motion by Vice Mayor Cortese, seconded by Council Member Chirco and carried unanimously, [Ordinance No. 28060](#) was adopted. (11-0.) (First Reading: 9-1-1. Noes: Campos. Disqualified: Williams.)

- (d) **ORD. NO. 28061 – Rezoning certain real property situated at the northeasterly corner of Cottle and Poughkeepsie Roads from the IP – Industrial Park Zoning District to the A(PD) Planned Development Zoning District. PDC06-003**

Documents Filed: Proof of Publication of the title of Ordinance No. 28061 executed on June 15, 2007, submitted by the City Clerk.

Public Comments: William Garbett spoke in opposition to the Staff recommendation.

Action: Upon motion by Vice Mayor Cortese, seconded by Council Member Chirco and carried unanimously, [Ordinance No. 28061](#) was adopted. (11-0.) (First Reading: 9-1-1. Noes: Campos. Disqualified: Williams.)

- (e) **ORD. NO. 28062 – Rezoning certain real property situated on the east side of Almaden Expressway, approximately 200 feet north of the terminus of Fleetwood Drive (16310 Almaden Road) to A(PD) Planned Development Zoning District. PDC06-070**

Documents Filed: Proof of Publication of the title of Ordinance No. 28062 executed on June 12, 2007, submitted by the City Clerk.

Action: [Ordinance No. 28062](#) was adopted. (11-0.)

- (f) **ORD. NO. 28063 – Rezoning certain real property situated within the area generally bounded by Kentwood Avenue, Highway 85 and South De Anza Blvd to A(PD) Planned Development Zoning District. PDC06-122**

Documents Filed: Proof of Publication of the title of Ordinance No. 28063 executed on June 8, 2007, submitted by the City Clerk.

Action: [Ordinance No. 28063](#) was adopted. (11-0.)



- 2.2 (g) **ORD. NO. 28064 – Rezoning certain real property situated at the north side of Alum Rock Avenue, approximately 200 feet southerly of 34<sup>th</sup> Street (1629 Alum Rock Avenue) to A(PD) Planned Development Zoning District. PDC07-019**

Documents Filed: Proof of Publication of the title of Ordinance No. 28064 executed on June 12, 2007, submitted by the City Clerk.

Action: [Ordinance No. 28064](#) was adopted. (11-0.)

- (h) **ORD. NO. 28065 – Rezoning certain real property situated on the west side of Dent Avenue, approximately 500 feet north of Kooser Road (5331 Dent Avenue), to A(PD) Planned Development Zoning District. PDC07-001**

Documents Filed: Proof of Publication of the title of Ordinance No. 28065 executed on June 8, 2007, submitted by the City Clerk.

Action: [Ordinance No. 28065](#) was adopted. (11-0.)

- 2.3 **Adoption of a resolution authorizing the City Manager to negotiate and execute the sixth amendment to the Fixed Base Operation Lease with ACM Aviation, LLC for Parcel 9C at the Norman Y. Mineta San José International Airport to reduce the leased premises by approximately 18,858 square feet to accommodate roadway improvements for the Terminal Area Improvement Program. CEQA: Resolution Nos. 67380 and 71451, File No. PP07-109. (Airport)**

Documents Filed: (1) Memorandum from Director of Aviation William Sherry, dated May 29, 2007, recommending adoption of a resolution. (2) Supplemental memorandum from Director of Aviation William Sherry, dated June 12, 2007, transmitting additional information regarding additional impacts.

Action: [Resolution No. 73837](#), entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute the Sixth Amendment to the Ground Lease with ACM Aviation, LLC for Parcel 9C at the Norman Y. Mineta San José International Airport”, was adopted. (11-0.)

- 2.4 **Adoption of a resolution establishing a long term ground leasing policy for Mineta San José International Airport that sets forth standard business terms and conditions for the lease of undeveloped ground at the Airport. CEQA: Resolution Nos. 67380 and 71451, File No. PP07-077. (Airport)**

Documents Filed: Memorandum from Director of Aviation William Sherry, dated May 29, 2007, recommending adoption of a resolution.

Action: [Resolution No. 73838](#), entitled: “A Resolution of the Council of the City of San José Establishing a Long Term Ground Leasing Policy for Norman Y. Mineta San José International Airport”, was adopted. (11-0.)



**2.5 Adoption of a resolution approving the City Council/Commission Code of Conduct Policy including the changes recommended by the Rules and Open Government Committee at the April 18, 2007 meeting. (City Attorney)  
[Rules Committee referral 5/23/07 – Item 3.1(g)(2)]**

Documents Filed: Memorandum from City Attorney Richard Doyle, dated June 7, 2007, transmitting two memoranda with attachments that were reviewed by the Rules and Open Government Committee on April 18, 2007 and May 23, 2007.

Action: [Resolution No. 73839](#), entitled: “A Resolution of the Council of the City of San José Establishing a City Council/Commission Code of Conduct Policy”, was adopted, which approved Council Policy No. 0-36. (11-0.)

**2.6 Adoption of a resolution validating of the following policies as contained in the Council Policy Manual:**

- (a) **Policy 6-4 Billboards on City-owned Land;**
- (b) **Policy 6-15 City Boundary Changes in Existing Urbanized Areas;**  
[Rules and Open Government Committee referral 5/23/07 – Item 3.1(i)(4)(a)]
- (d) **Policy 6-29 Post Construction Urban Runoff Management;**
- (e) **Policy 6-31 Uses of San José/Santa Clara Water pollution Control Plant Lands;**
- (f) **Policy 7-5 Naming of City-owned Land and Facilities.**  
[Rules and Open Government Committee referral 5/30/07 – Item 3.2(i)(4)(a)]

Documents Filed: Memorandum from City Clerk Lee Price, dated May 31, 2007, transmitting the selected policies contained in the City Council Policy Manual.

Action: [Resolution No. 73840](#), entitled: “A Resolution of the Council of the City of San José Validating Policies Contained in the City Council Policy Manual”, was adopted. (11-0.)

- (c) **Policy 6-20 Land Use Policy for Monopoles and Cellular Telephone Facilities;**

Documents Filed: Supplemental memorandum from City Attorney Richard Doyle, dated June 18, 2007, recommending Item 2.6(c) be dropped from the Agenda.

Action: Dropped per the Office of the City Attorney.

**2.7 As recommended by the Library Commission name the new branch library currently being constructed at Monterey Road and East Branham Lane the “Edenvale Branch Library”. CEQA: Not a Project. Council District 2. (City Clerk)**

Documents Filed: Memorandum from Secretary Library Commission Jane Light and City Clerk Lee Price, dated May 29, 2007, transmitting the Library Commission recommendation.

## 2.7 (Cont'd.)

Council Member Williams commended the Library Department for all their hard work on the Edenvale Branch Library currently being constructed.

Action: Upon motion by Council Member Williams, seconded by Vice Mayor Cortese and carried unanimously, the name “Edenvale Branch Library”, was approved. (11-0.)

- 2.8 (a) **Approval of the proposed 2006-08 Spending Plan for the 2006 Edward Byrne Memorial Justice Assistance Grant Trust (JAG) Fund.**
- (b) **Adoption of the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Edward Byrne Memorial Justice Assistance Grant Trust Fund:**
- (1) **Increase the estimate for the Earned Revenue in the amount of \$259,780;**
  - (2) **Establish the JAG 2006-08 appropriations to the Police Department in the amount of \$259,780.**

**CEQA: Not a Project. (City Manager’s Office/Police)**

Documents Filed: Memorandum from Budget Director Larry Lisenbee and Police Chief Robert Davis, dated May 29, 2007, recommending approval of the 2006-08 Spending Plan and adoption of appropriation ordinance and funding sources resolution amendments.

Action: The 2006-08 Spending Plan for the 2006 Edward Byrne Memorial Justice Assistance Grant Trust Fund was approved; [Ordinance No. 28068](#), entitled: “An Ordinance of the City of San José Amending Ordinance No. 27801 to Appropriate Monies in the Edward Byrne Memorial Justice Assistance Grant Trust Fund for the Justice Assistance Grant 2006-2008; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption” and [Resolution No. 73834](#), entitled: “A Resolution of the Council of the City of San José “A Resolution of the Council of the City of San José Amending Resolution No. 73265 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2006-2007 to Adjust Revenues in the Edward Byrne Memorial Justice Assistance Grant Trust Fund”, were adopted. (11-0.)

- 2.9 **Adoption of a resolution authorizing the City Manager to execute an agreement with the Santa Clara Valley Water District for cost sharing associated with water conservation programs in FY 2007-2008, under which the City will receive an amount not to exceed \$280,000 and the District will be paid an amount not to exceed \$547,480, for a net cost to the City of \$267,480. CEQA: Not a Project. (Environmental Services)**

Documents Filed: (1) Memorandum from Director of Environmental Services John Stufflebean, dated May 2, 2007, recommending approval of the agreement. (2) Letter from the Treatment Plant Advisory Committee, dated June 13, 2007, stating concurrence with the Staff recommendation.

**2.9 (Cont'd.)**

Action: [Resolution No. 73841](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute an Agreement with the Santa Clara Valley Water District for Cost Sharing in Implementation of Water Conservation Programs for Fiscal Year 2007-2008", was adopted. (11-0.)

**2.10 Adoption of a resolution setting a public hearing on August 7, 2007 at 1:30 p.m. for 2007-2008 Sanitary Sewer Service and Use Charges and Storm Sewer Service Charges based on annual reports of the Director of Finance and direct the City Clerk to publish notice of the time and place of the hearing. CEQA: Not a Project. (Finance)**

Documents Filed: Memorandum from Director of Finance Scott Johnson, dated May 29, 2007, recommending adoption of a resolution.

Public Comments: William Garbett spoke in opposition to the Staff recommendation.

Action: Upon motion by Vice Mayor Cortese, seconded by Council Member Chirco and carried unanimously, [Resolution No. 73842](#), entitled: "A Resolution of the Council of the City of San José Setting a Public Hearing on the Annual Sewer Service and Use Charge and Storm Sewer Service Charge Reports of the Director of Finance Pursuant Sections 15.12.550 and 15.16.1410 of the San José Municipal Code", was adopted. (11-0.)

**2.11 Adoption of a resolution authorizing the Director of Finance to execute the third amendment to the agreement with Scheidt & Bachmann USA, Inc. to extend the term of the agreement through September 30, 2007, revise the statement of work, and reduce the amount of total compensation by \$15,000 from \$1,991,725 to \$1,976,725, for a total agreement amount of \$1,976,725. CEQA: Not a Project. Council District 3. (Finance)**

Action: Deferred to June 26, 2007, per Office of the City Attorney.

**2.12 Approval of the fourth amendment to the Investment Custodial Services Agreement with Wells Fargo Bank to extend the term of the agreement for one year from July 1, 2007 through June 30, 2008, in an amount not to exceed \$50,000, increasing total compensation from \$300,000 for a total contract amount of \$350,000. CEQA: Not a Project. (Finance)**

Documents Filed: Memorandum from Deputy Director of Finance Julia Cooper, dated May 29, 2007, recommending approval of the fourth amendment to the agreement.

Action: The fourth amendment to the Investment Custodial Services Agreement with Wells Fargo Bank to extend the term of the agreement for one year from July 1, 2007 through June 30, 2008, in an amount not to exceed \$50,000, increasing total compensation from \$300,000 for a total contract amount of \$350,000 was approved. (11-0.)

- 2.13 (a) Approval of an agreement with Tax Compliance Services (TCS) to provide Utility Users Tax and Franchise Fee compliance services and related revenue enhancement services for a one-year term beginning July 1, 2007 through June 30, 2008 for an amount not to exceed \$138,000.**
- (b) Adoption of a resolution authorizing the Director of Finance to extend the contract for up to three additional one-year option periods for a maximum compensation for the agreement not to exceed \$552,000 subject to the appropriation of funds by the City Council.**
- CEQA: Not a Project. (Finance)**

Documents Filed: Memorandum from Director of Finance Scott Johnson, dated May 29, 2007, recommending approval of the agreement and authorization to extend the contract.

Public Comments: William Garbett spoke in opposition to the Staff recommendation.

Action: Upon motion by Vice Mayor Cortese, seconded by Council Member Chirco and carried unanimously, the agreement with Tax Compliance Services to provide Utility Users Tax and Franchise Fee compliance services and related revenue enhancement services for a one-year term beginning July 1, 2007 through June 30, 2008 for an amount not to exceed \$138,000 was approved and [Resolution No. 73843](#), entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Execute up to Three One Year Options to Extend the Agreement with Tax Compliance Services to Provide Utility Users Tax and Franchise Fee Compliance Services”, was adopted. (11-0.)

- 2.14 Adoption of a resolution increasing the Library Parcel Tax rates for FY 2007-2008 by 3.0% over the FY 2006-2007 rates and approving the placement of the Library Parcel Tax on the FY 2007-2008 Santa Clara County Property Tax Roll. CEQA: Not a Project. (Finance)**

Documents Filed: Memorandum from Director of Finance Scott Johnson, dated May 29, 2007, recommending adoption of a resolution.

Item 2.14 was pulled by Brad Imamura, however he was not present to speak.

Action: Upon motion by Council Member Chirco, seconded by Council Member Williams and carried unanimously, [Resolution No. 73844](#), entitled: “A Resolution of the Council of the City of San José Approving the Increased Library Parcel Tax Rates for FY 2007-2008 and Approving the Placement of the Library Parcel Tax on the FY 2007-2008 Santa Clara County Property Tax Roll”, was adopted. (11-0.)

- 2.15 Approval of the sixth amendment to the General Banking Services Agreement with Union Bank of California to extend the term of the agreement for one year from July 1, 2007 through June 30, 2008, in an amount not to exceed \$820,000 for the one-year extension, for a total amount not to exceed \$5,960,000. CEQA: Not a Project. (Finance)**

## **2.15 (Cont'd.)**

Documents Filed: Memorandum from Director of Finance Scott Johnson, dated May 29, 2007, recommending approval of the sixth amendment to the agreement.

Action: The sixth amendment to the General Banking Services Agreement with Union Bank of California to extend the term of the agreement for one year from July 1, 2007 through June 30, 2008, in an amount not to exceed \$820,000 for the one-year extension, for a total amount not to exceed \$5,960,000 was approved. (11-0.)

## **2.16 Approval to amend the Consolidated Plan to allow for a change to a previously approved project and the creation of revolving loan funds under the Community Development Block Grant (CDBG) program as follows:**

- (a) Boys and Girls Club: Acquisition by and transfer of title to the City of San José of a full service sports field developed with a \$750,000 CDBG loan, and expansion of the benefit area.**
- (b) Revolving Loan Fund: Creation of Housing Rehabilitation and Capital Expansion Program revolving loan funds.**

**CEQA: Exempt, File No. PP06-071. Council Districts 5, 7 and 8. SNI: KONA/West Evergreen/East Valley/680. (Housing)**

Documents Filed: Supplemental memorandum from Director of Housing Leslye Krutko, dated May 29, 2007, recommending approval of the amendments to the Consolidated Plan and transmitting items omitted from the list of recommendations.

Action: The amendments to the Consolidated Plan to allow for a change to a previously approved project and the creation of revolving loan funds under the Community Development Block Grant program were approved. (11-0.)

## **2.17 Adoption of a resolution:**

- (a) Approving a \$300,000 pilot program for repairing or replacing infrastructure within a mobile home park(s) located within a Strong Neighborhood Area and;**
- (b) Delegating to the Director of Housing the authority to select a mobile home park(s) to receive such repairs and to negotiate and execute all non-capital project agreements that do not require prior CEQA review and clearance, and to negotiate and execute all capital project agreements only after CEQA review and clearance and City Council approval, all with the owner(s) of said property(ies) to effect those repairs.**

**CEQA: Not a Project. (Housing)**

Documents Filed: Memorandum from Director of Housing Leslye Krutko, dated June 5, 2007, recommending adoption of a resolution.

Director of Housing Leslye Krutko responded to Council questions.

## 2.17 (Cont'd.)

Action: Upon motion by Council Member Pyle, seconded by Council Member Campos and carried unanimously, [Resolution No. 73845](#), entitled: "A Resolution of the Council of the City of San José Approving (a) A \$300,000 Pilot Program for Repairing or Replacing Infrastructure Within a Mobile Home Park(s) Located within a Strong Neighborhood Area and; (b) Delegating to the Director of Housing the Authority to Select a Mobile Home Park(s) to Receive Such Repairs and to Negotiate and Execute All Non-Capital Project Agreements and Contracts Not Requiring CEQA Review and Negotiate all Capital Project Agreements and Contracts, Including any Amendments or Modifications, and Subject to CEQA Review and City Council Project Approval, To Execute all Contracts with the Owners(s) of Said Property(ies) to Effect Those Repairs", was adopted, with Staff directed to return to the Committee with a status report on the pilot program. (11-0.)

- 2.18 (a) **Approving a sixth amendment to the HomeVenture Fund grant agreement to allow Neighborhood Housing Services Silicon Valley to retain \$300,000 from the HomeVenture fund to be used for Homeownership Center Operations; and**
- (b) **Approving a \$230,000 grant from the City's Housing Trust Fund to NHSSV to be used for program and administrative costs for NHSSVs pre-purchase and foreclosure prevention, education, and counseling services; and**
- (c) **Authorizing the Director of Housing to negotiate and execute the amendment to the HomeVenture grant agreement and the Housing Trust Fund grant agreement and other related documents.**
- CEQA: Not a Project. (Housing)**

Documents Filed: Memorandum from Director of Housing Leslye Krutko, dated May 29, 2007, recommending adoption of a resolution.

Action: [Resolution No. 73846](#), entitled: "A Resolution of the Council of the City of San José (a) Approving a Sixth Amendment to the Home Venture Fund Grant Agreement to Allow Neighborhood Housing Services Silicon Valley to Retain \$300,000 from the Home Venture Fund To Be Used for Homeownership Center Operations; and (b) Approving a \$230,000 Grant from the City's Housing Trust Fund to Grant Agreement and Other Related Documents", was adopted. (11-0.)

- 2.19 **Adoption of a resolution authorizing the City Manager to execute the Voluntary Compliance Agreement (VCA) drafted between the City of San José and the U.S. Department of Housing and Urban Development (HUD) pertaining to the 2006 HUD Civil Rights Audit on ADA Requirements. CEQA: Not a Project. (Housing/Public Works)**

Documents Filed: Memorandum from Director of Housing Leslye Krutko and Director of Public Works Katy Allen, dated May 30, 2007, recommending execution of the Voluntary Compliance Agreement.

**219 (Cont'd.)**

Action: [Resolution No. 73847](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute the Voluntary Compliance Agreement Drafts between the City of San José and the U.S. Department of Housing and Urban Development Pertaining to the 2006 HUD Civil Rights Audit on ADA Requirements", was adopted.(11-0.)

**2.20 Adoption of a resolution:**

- (a) Authorizing the City Manager to negotiate and execute an agreement with Fair Isaac Corporation to provide workers' compensation cost containment services at a cost not to exceed \$750,000 during the period July 1, 2007 to June 30, 2008, and authorizing the City Manager to execute up to four one-year options to renew at a cost not to exceed \$750,000 per year, subject to annual appropriation of funds by the City Council; and,**
- (b) Extending the current agreement of July 1, 2006 to June 30, 2007 with Fair Isaac Corporation for up to three months, in the event negotiations are not finalized by June 30, 2007.**

**CEQA: Not a Project. (Human Resources)**

Action: Deferred to June 26, 2007, per Administration.

**2.21 Adoption of a resolution to create the following job classifications:**

- (a) Therapeutic Services Manager**
- (b) Senior Therapeutic Treatment Specialist**

**CEQA: Not a Project. (Human Resources)**

Documents Filed: Memorandum from Director of Human Resources Mark Danaj, dated May 29, 2007, recommending adoption of a resolution.

Action: [Resolution No. 73848](#), entitled: "A Resolution of the Council of the City of San José Creating the Job Classifications of Therapeutic Services Manager and Senior Therapeutic Treatment Specialist", was adopted. (11-0.)

**2.22 Adoption of a resolution authorizing the City Manager to negotiate and execute amendments to continue the current Employee Assistance Program and Critical Incident Stress Debriefing agreements with Managed Health Network for a period not to exceed three months at a cost of \$213,000, subject to marginal change based on month-to-month usage. CEQA: Not a Project. (Human Resources)**

Documents Filed: Memorandum from Director of Human Resources Mark Danaj, dated May 29, 2007, recommending adoption of a resolution.

Action: [Resolution No. 73849](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute Amendments to Continue the Agreements with Managed Health Network for the Employee Assistance Program and Critical Incident Stress Debriefing", was adopted. (11-0.)



- 2.23 Adoption of a resolution authorizing the City Manager to negotiate and execute the second amendment to the agreement with Willis Insurance Services of California Inc., for citywide insurance broker services, to extend the current contract from July 1, 2007 to June 30, 2008 with the same terms and conditions including a cap on commissions paid to Willis by insurance carriers for placement of the City's policies in an amount not to exceed \$241,000. CEQA: Not a Project. (Human Resources/ Finance)**

Documents Filed: Memorandum from Director of Human Resources Mark Danaj and Director of Finance Scott Johnson, dated May 29, 2007, recommending adoption of a resolution.

Action: [Resolution No. 73850](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Second Amendment to the Agreement with Willis Insurance Services of California, Inc. for Citywide Insurance Broker Services in an Amount Not To Exceed \$241,000", was adopted. (11-0.)

- 2.24 Approval of Mayor Reed's travel to Austin, TX on October 10-12, 2007 to attend the San José/Silicon Valley Chamber of Commerce City to City trip. Source of Funds: Mayor and Council Travel Fund. (Mayor)  
[Rules Committee referral 5/30/07 – Item 3.2(g)(1)]**

Documents Filed: Memorandum from City Clerk Lee Price, dated May 31, 2007, transmitting as recommended by the Rules and Open Government Committee, requesting approval of Mayor Reed's travel to Austin, Texas.

Action: The travel request for Mayor Reed was approved. (11-0.)

- 2.25 Adoption of a resolution authorizing the reorganization of territory designated as Monterey Park No. 109 which involves the annexation to the City of San José of 4.43 gross acres of land located on the northwesterly corner of Curtner Avenue and Stone Avenue and the detachment of the same from the appropriate special districts including County Lighting County Service, Central Fire Protection, Area No. 01 (Library Services) County Service, and County Sanitation District 2-3. CEQA: Resolution No. 69636, and Addenda thereto File No. 65459. Council District 7. (Planning, Building and Code Enforcement)**

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated May 29, 2007, recommending adoption of a resolution.

Action: [Resolution No. 73851](#), entitled: "A Resolution of the Council of the City of San José Ordering the Reorganization of Certain Uninhabited Territory Designated as Monterey No. 109, Subject to Liability for General Indebtedness of the City" adopted. (11-0.)

- 2.26 (a) **Adoption of a resolution to initiate proceedings to consider the single family house located at 1023 Bird Avenue house as a landmark of special historical, architectural, cultural, aesthetic or engineering interest or value of a historic nature.**
- (b) **Refer the matter back to the Historic Landmarks Commission for its consideration at a public hearing, report and recommendation.**
- (c) **Adoption of a resolution setting a public hearing on August 14, 2007 at 1:30 p.m. for Council consideration of designating the Queen Anne Victorian House as a City Historic Landmark.**

**CEQA: Exempt, File NO. HL06-157. Council District 6. (Planning, Building and Code Enforcement)**

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated May 29, 2007, recommending adoption of a resolution and referral of the matter back to Historic Landmarks Commission. (2) Affidavit of Routing executed on June 19, 2007, and distributed by the City Clerk.

Action: Referral of the matter back to the Historic Landmarks Commission for its consideration at a public hearing, report and recommendation was approved and [Resolution No. 73852](#), entitled: "A Resolution of the Council of the City of San José Initiating Proceedings on its Own Motion, Pursuant to the Provisions of Chapter 13.48 of Title 13 of the San José Municipal Code, to Designate the Queen Anne Victorian House Located at 1023 Bird Avenue, as a City Landmark of Special Historical, Architectural, Cultural, Aesthetic or Engineering Interest or Value of an Historic Nature", was adopted. (11-0.)

- 2.27 **Take the following actions to propose an increase to the annual assessment and revise the scope of services for Maintenance District 18, The Meadowlands:**
- (a) **Adoption of a resolution preliminarily approving the Engineer's Report.**
- (b) **Setting the public meeting to be held on August 14, 2007 at 1:30 p.m.**
- (c) **Setting the public hearing and tabulation of property owner ballots for September 18, 2007 at 7:00 p.m.**
- (d) **Directing that the notice of said meeting and hearing and ballots be mailed to the property owners in district.**

**CEQA: Exempt, File No. PP07-020. Council District 8. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated May 29, 2007, recommending adoption of a resolution, setting the public meeting and hearing.

Action: [Resolution No. 73853](#), entitled: "A Resolution of the Council of the City of San José Preliminarily Approving the Engineer's Report for a Change to Maintenance District 18 (The Meadowlands) and Taking Certain Other Actions Preliminary to the Approval of Such a Change to the Maintenance District Pursuant to the Provisions of San José Municipal Code Chapter 14.15 and California Constitution Article 13D", was adopted; and the public meeting was set for August 14, 2007 at 1:30 p.m.; the public hearing and tabulation of property owner ballots was set for September 18, 2007 at 7:00 p.m. and Staff was directed to notice the meeting, hearing and mail the ballots to the property owners in the District. (11-0.)

**2.28 Approval of a continuation agreement with BFGC Architects Planners, Inc. for planning, design and construction design services for Fire Station No. 25, extending the term of the agreement from March 1, 2007 to December 1, 2007, at no cost to the City. CEQA: Resolution No. 69636, and addenda thereto File No. PP04-331. Council District 4. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated May 29, 2007, recommending approval of a continuation agreement.

Action: The continuation agreement with BFGC Architects Planners, Inc. for planning, design and construction design services for Fire Station No. 25, extending the term of the agreement from March 1, 2007 to December 1, 2007, at no cost to the City, was approved. (11-0.)

**2.29 Adoption of a resolution:**

- (a) **Determining that the City Hall Audio-Visual System Expansion Project need not be publicly bid because the solicitation of bids would be an idle act;**
- (b) **Authorizing the City Manager to negotiate and execute a contract for the design and construction of the City Hall Audio-Visual Expansion Project to Ceitronics, Inc. in the maximum amount of \$300,000, and approval of a contingency in the amount of \$30,000; and**
- (c) **Determining that the City Hall Audio-Visual System Expansion Project requires using certain brand name “control” equipment manufactured by Crestron Electronics, Inc. to match the existing audio-visual system.**

**CEQA: Resolution No. 68905. (Public Works/General Services)**

Documents Filed: Memorandum from Director of Public Works Katy Allen and Director of General Services Peter Jensen, dated May 29, 2007, recommending adoption of a resolution.

Public Comments: William Garbett spoke in opposition to the Staff recommendation.

Action: Upon motion by Vice Mayor Cortese, seconded by Council Member Chirco and carried unanimously, [Resolution No. 73854](#), entitled: “A Resolution of the Council of the City of San José Finding that the Solicitation of Bids for the City Hall Audio Visual System Expansion Project would be an Idle Act, Authorizing the City Manager to Execute a Design Build Contract for the Project with Ceitronics, Inc. and Finding that the Project Requires Using Brand Name Control Equipment Manufactured by Crestron Electronics”, was adopted. (11-0.)

**2.30 Adoption of a resolution to repeal Resolution No. 73823 and to amend the Master Parking Rate Schedule to do the following:**

- (a) Combine the City's existing Clean Air and Hybrid Vehicle Parking Validation Programs into one program entitled, "Clean Air Vehicle Program" which will modify the terms of the existing Clean Air and Hybrid Vehicle Parking Validation Programs so that they do the following:**
  - (1) Match the program requirements to meet those for the State of California Carpool Lane sticker requirements for a Single Occupancy vehicle, with the exception of including Neighborhood Electric Vehicles;**
  - (2) Provide that Clean Air Vehicles must be purchased after January 1, 2000 from a licensed auto dealership in the City of San Jose;**
  - (3) Limit participation of City parking facilities to the Third Street Garage, Fourth Street Garage, Market Street Garage, 2nd/San Carlos Garage, 2nd/St. James Lot, San Pedro/Bassett Lot, and San Jose Regional Parks and parking meters throughout the City of San Jose;**
  - (4) Add an administrative fee of \$30 for new and replacement permit to cover the administrative costs of the program.**
- (b) Extend the modified Clean Air Vehicle Program through June 30, 2009 and authorize the Director of Transportation to extend the modified Clean Air Vehicle Program annually thereafter, as long as the parking supply and demand supports continuation of the program.**
- (c) Authorize the Director of Transportation to add or remove any parking facility from the modified Clean Air Vehicle Program as necessary.**

**CEQA: Not a Project. Council District 3. (Transportation)**

Documents Filed: Memorandum from Director of Transportation James Helmer, dated May 29, 2007, recommending adoption of a resolution.

Public Comments: Ross Signorino stated that the City should extend the "Clean Air Vehicle" Program throughout the County of Santa Clara.

Action: Upon motion by Council Member Pyle, seconded by Council Member Campos and carried unanimously, [Resolution No. 73855](#), entitled: "A Resolution of the Council of the City of San José Amending the Master Parking Rate Schedule to Combine the City's Existing Clean Air and Hybrid Vehicle Parking Validation Programs into one Program entitled, Clean Air Vehicle Program"; Modify the Terms of the Existing Clean Air and Hybrid Vehicle Parking Validation Programs so that they Match the Program Requirements to Meet those for the State of California Carpool Lane Sticker Requirements for a Single Occupancy Vehicle, with the Exception of Including Neighborhood Electric Vehicles, Provide that Clean Air Vehicles Must be Purchased After January 1, 2000 from a Licensed Auto Dealership in the City of San José, Limit Participation of City Parking Facilities to the Third Street Garage, Fourth Street Garage, Market Street Garage, 2nd/San Carlos Garage, 2nd/St. James Lot, San Pedro/Bassett Lot and San José Regional Parks and Parking Meters Throughout the City of San José and Add an Administrative Fee of \$30 for New and Replacement Permits to Cover the

**2.30 (Cont'd.)**

Administrative Costs of the Program; Extend the Modified Clean Air Vehicle Program Through June 30, 2009 and Authorize the Director of Transportation to Extend the Modified Clean Air Vehicle Program Annually Thereafter, as Long as the Parking Supply and Demand Supports Continuation of the Program; Authorize the Director of Transportation to Add or Remove any Parking Facility from the Modified Clean Air Vehicle Program as Necessary; and Repeal Resolution No. 73823 Effective upon Council Approval”, was adopted. (10-0-1. Absent: Nguyen.)

**2.31 Consideration of a Historical Property Contract (California Mills Act) between the City of San José and the owners of the Arguello-Gosby House, City Landmark File No. HL06-156, located at 456 North Third Street on a 0.2-acre site in the R-M Multi-Family Zoning District (Angela Chumak, Owner). The proposed contract, which is available to owners of designated City Landmark buildings, would facilitate a property tax reassessment and partial tax relief in return for a binding agreement to rehabilitate and maintain the historical and architectural character of the property for at least a ten-year period. SNI: 13<sup>th</sup> Street. CEQA: Exempt. The Historic Landmarks Commission recommends approval (7-0-0).**

**MA07-003 – District 3**

**(Planning, Building and Code Enforcement)**

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated May 31, 2007, transmitting the Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. MA07-003, dated May 30, 2007, recommending approval. (2) Memorandum from Historic Landmarks Commission Secretary Joseph Horwedel, dated June 8, 2007, transmitting the Historic Landmarks Commission recommendation of approval. (3) Proof of Publication of Notice of Public Hearing, executed on May 25, 2007, submitted by the City Clerk.

Action: Resolution No. 73856, entitled: “A Resolution of the Council of the City of San José Approving a Historic Landmark Preservation Agreement with Angela Chumak for the Arguello-Gosby House (City Landmark No. HL06-156)”, was adopted. (11-0.)

**2.32 Consideration of a Historical Property Contract (California Mills Act) between the City of San José and the owner of the Wilder-Hait House, City Landmark File No. HL04-150, located at 1190 Emory Street on a 1.2-acre site in the R-1-8 Single Family Residence Zoning District (Alex and Cynthia Clerk, Owners). The proposed contract, which is available to owners of designated City Landmark buildings, would facilitate a property tax reassessment and partial tax relief in return for a binding agreement to rehabilitate and maintain the historical and architectural character of the property for at least a ten-year period. CEQA: Exempt. The Historic Landmarks Commission recommends approval (7-0-0).**

**MA07-001 – District 6**

**(Planning, Building and Code Enforcement)**

## 2.32 (Cont'd.)

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated May 31, 2007, transmitting the Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. MA07-001, dated May 30, 2007, recommending approval. (2) Memorandum from Historic Landmarks Commission Secretary Joseph Horwedel, dated June 8, 2007, transmitting the Historic Landmarks Commission recommendation of approval. (3) Proof of Publication of Notice of Public Hearing, executed on May 25, 2007, submitted by the City Clerk.

Action: [Resolution No. 73857](#), entitled: "A Resolution of the Council of the City of San José Approving a Historic Landmark Preservation Agreement with Alex Clerk and Cynthia Clerk for the Wilder-Hait House (City Landmark No. HL06-150)", was adopted. (11-0.)

## 2.33 **Adoption of a resolution authorizing the City Manager to negotiate and execute a Memorandum of Understanding between the City of San José and the City of Santa Clara Regarding Planning, Permit Approval and Inspection Responsibilities for the Contemplated Expansion of the Valley Fair Mall. CEQA: Resolution No. 73809. Council District 6. (Planning, Building and Code Enforcement)**

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated June 4, 2007, recommending approval of a memorandum of understanding.

Action: [Resolution No. 73858](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Memorandum of Understanding with the City of Santa Clara Regarding Planning, Permit Approval and Inspection Responsibilities for the Contemplated Expansion of the Valley Fair Mall", was adopted. (11-0.)

## 2.34 **Adoption of a resolution authorizing the City Manager to:**

- (a) **Negotiate and execute the sixth amendment to the agreement for Airport Bus Service with the Santa Clara County Valley Transportation Authority (VTA), extending the term from July 1, 2007 to June 30, 2010, with the option for the City to extend the agreement for up to two (2) additional two-year terms, with first year compensation to VTA in an amount not to exceed \$1,400,000 and with compensation for subsequent years subject to adjustment based upon the Consumer Price Index, and subject to appropriation of funds for each year.**
- (b) **Exercise up to two (2) two-year options to extend the agreement, subject to appropriation of funds for each option year.**

**CEQA: Resolution Nos. 67380 and 71451, File No. PP07-110. (Airport)**

Documents Filed: Memorandum from Director of Aviation William Sherry, dated May 29, 2007, recommending approval of the 6th amendment to the agreement.

## **2.34 (Cont'd.)**

Public Comments: William Garbett spoke in opposition to the Staff recommendation.

Action: Upon motion by Vice Mayor Cortese, seconded by Council Member Chirco and carried unanimously, [Resolution No. 73859](#), entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute the Sixth Amendment to the Agreement for Airport Bus Service with the Santa Clara Valley Transportation Authority”, was adopted. (11-0.)

## **2.35 Report on bids and award of contract for the Slurry Seal 2007 project to the low bidder, Graham Contractors, Inc. in the amount of \$1,974,880.00 and approval of a five percent (5%) contingency in the amount of \$99,000. CEQA: Exempt, File No. PP04-039. (Transportation)**

Documents Filed: Memorandum from Director of Transportation James Helmer, dated May 29, 2007, recommending award of the contract.

Action: The award of contract for the Slurry Seal 2007 project to the low bidder, Graham Contractors, Inc. in the amount of \$1,974,880.00 and approval of a five percent contingency in the amount of \$99,000 was approved. (11-0.)

## **END OF CONSENT CALENDAR**

## **STRATEGIC SUPPORT SERVICES**

### **3.1 Report of the Rules and Open Government Committee – May 23, 2007 Mayor Reed, Chair**

- (a) City Council
  - (1) Review New Add Items to May 29, 2007 Agenda  
None, meeting canceled.
  - (2) Review June 5, 2007 Draft Agenda
    - (a) Add New Items to final agenda
      - (1) City Manager Compensation.  
Heard By Council on 6/5/07, Item 3.10.
      - (2) Elections Commission Recommendation to Change Special Eligibility Requirement that One Member of the Elections Commission Be an Attorney at Law.  
Heard By Council on 6/5/07, Item 3.6.
      - (3) Vietnamese Business District Designation.  
Heard By Council on 6/5/07, Item 9.1.
- (b) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (c) Legislative Update
  - (1) State
    - (a) AB 1252 (Caballero) – Housing Related Parks Program.
    - (b) AB 1460 (Saldana) – Multifamily Housing Program.



### **3.1 Report of the Rules and Open Government Committee – May 23, 2007 (Cont'd.0 Mayor Reed, Chair**

- (c) Legislative Update (Cont'd.)
  - (1) State
    - (c) SB 46 (Perata) – Proposition 1C Regional Planning, Housing, and Incentive Account.
    - (d) SB 586 (Dutton) – Proposition 1C Innovation Fund.  
Heard by Council on 6/5/07, Item 3.8.
  - (2) Federal
- (d) Meeting Schedules
- (e) The Public Record
- (f) Appointments to Boards, Commissions and Committees
- (g) Rules Committee Reviews, Recommendations and Approvals
  - (1) Council Expenditures and Reimbursement Policy  
(Continued from 5/16/07)
  - (2) Approve the revised Commission/Liaison Code of Conduct Policy.  
See Item 2.5 for Council Action Taken.
  - (3) Response to the Macias Consulting Group's Report on the Finance Department's Investment Unit and the Finance Department's Response.
  - (4) Discussion of Cost Neutral Opportunities for a Public Safety Memorial at New City Hall with Direction to Implement Memorial and Process for Accepting Private Sponsorship.
- (h) Review of Council Committee Agendas
  - (1) Community and Economic Development Committee
  - (2) Neighborhood Services and Education Committee
  - (3) Transportation and Environment Committee
  - (4) Public Safety, Finance and Strategic Support Committee
- (i) Open Government Initiatives
  - (1) Reed Reforms
  - (2) Sunshine Reform Task Force
  - (3) Significant Public Records Act Requests
  - (4) Council Policy Manual Update
    - (a) Approval to Validate Selected Policies Contained in the City Council Policy Manual.  
See Item 2.6 (a)-(c) for Council Action Taken.
- (j) Open Forum
- (k) Adjournment  
(Deferred from 6/12/07 – Item 3.1)

Action: Deferred to June 26, 2006, per Orders of the Day.

### **3.2 Report of the Rules and Open Government Committee – May 30, 2007 Mayor Reed, Chair**

- (a) City Council
  - (1) Review New Add Items to June 5, 2007 Agenda
  - (2) Review June 12, 2007 Draft Agenda
- (b) Redevelopment Agency items reported out at Redevelopment Agency meeting

### **3.2 Report of the Rules and Open Government Committee – May 30, 2007 (Cont'd.) Mayor Reed, Chair**

- (c) Legislative Update
  - (1) State
    - (a) SB 966 (Simitian and Kuehl) – Pharmaceutical Drug Disposal.  
Heard by Council on 6/5/07, Item 3.12.
  - (2) Federal
- (d) Meeting Schedules
  - (1) Council Meeting Schedule August 2007 – January 2008
  - (2) (1) Review two proposed meeting formats as presented by the Independent Police Auditor and the Administration; (2) Approve one of the proposed formats, or a hybrid of the two proposals, for a Special Council Meeting scheduled on June 21, 2007, beginning at 6:00 p.m., in the City Council Chambers for consideration of various police related reports.
- (e) The Public Record
- (f) Appointments to Boards, Commissions and Committees
  - (1) Amendment to the Residency Requirement of the News Media Member of the Sunshine Reform Task Force and Appointment of Bert Robinson to the Sunshine Task Force.  
Heard by Council on 6/5/07, Item 3.13.
- (g) Rules Committee Reviews, Recommendations and Approvals
  - (1) Approve Travel Request.  
See Item 2.24 for Council Action Taken.
  - (2) Historic Freedom Shrine Display.
  - (3) Approve the use of the District 4 Special Event Fund and to acknowledge the receipt of and use of various donations in support of the Community Resource Fair to be held on Sunday, June 3, 2007 in the City Hall Civic Plaza and Rotunda.
- (h) Review of Council Committee Agendas
  - (1) Community and Economic Development Committee
  - (2) Neighborhood Services and Education Committee
  - (3) Transportation and Environment Committee
  - (4) Public Safety, Finance and Strategic Support Committee
- (i) Open Government Initiatives
  - (1) Reed Reforms
  - (2) Sunshine Reform Task Force
    - (a) Phase I Report and Open Government Recommendations.
  - (3) Significant Public Records Act Requests
  - (4) Council Policy Manual Update
    - (a) Approval to Validate Selected Policies Contained in the City Council Policy Manual.  
See Item 2.6 (d)-(f) for Council Action Taken.
- (j) Open Forum
- (k) Adjournment

Action: Deferred to June 26, 2006, per Orders of the Day.

- 3.4 (a) **Acceptance of the Administration's recommendation to NOT approve the benefit enhancements requested by the Association of Retired San José Police Officers and Firefighters (Police and Fire Retirees).**
- (b) **Acceptance of the Administration's recommendation to NOT approve the benefit enhancements requested by the San José Retired Employees Association (Federated Retirees).**

**CEQA: Not a Project. (City Manager's Office)**  
**(Deferred from 5/22/07 – Item 3.6)**

Documents Filed: (1) Memorandum from City Manager Les White, dated May 2, 2007, recommending acceptance of the Administration's recommendation to not approve the benefit enhancements. (2) Supplemental memorandum from City Manager Les White, dated June 28, 2007, transmitting the revisions to the benefit enhancements. (3) Letters from the Association of Retired San José Police Officers and Firefighters, both dated June 18, 2007, providing clarification; withdrawing the proposal for medical benefits for widows and requesting Council drop this item from the agenda. (4) Letter from San José Retired Employees Association, dated June 18, 2007, requesting that Council refer the Medicare Part B Reimbursement Proposal back to the Administration for further study and cost analysis.

Action: Dropped per Orders of the Day.

- 3.5 **Adoption of amendments to the annual appropriation ordinance and funding sources resolution for various operating and capital funds to reflect estimated FY 2006-2007 revenue receipts, expenses, and encumbrances and adoption of a resolution making certain determinations regarding the expenditure of Redevelopment Agency Funds on certain public improvements. CEQA: Not a Project. (City Manager's Office)**

Documents Filed: (1) Memorandum from Budget Director Larry Lisenbee, dated June 4, 2007, recommending adoption of appropriation ordinance and funding sources resolution amendments and a resolution. (2) Supplemental memorandum from Budget Director Larry Lisenbee, dated June 14, 2007, transmitting supplemental pages to Attachment A and B with additional budget actions.

Action: Upon motion by Council Member Chirco, seconded by Council Member Pyle and carried unanimously, [Ordinance No. 28069](#), entitled: "An Ordinance of the City of San José Amending Ordinance No. 27801 to Appropriate Monies in the Various Operating and Capital Funds to Reflect Estimated 2006-2007 Revenue Receipts, Expenses and Encumbrances; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption"; [Resolution No. 73835](#), entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 73265 to Implement the 2006-2007 Annual Report Recommendations and make Appropriate Technical Adjustments to Adjust Revenues in Various Operating Funds" and [Resolution 73835.1](#), entitled: "A Resolution of the Council of the City of San José Making Certain Determinations Regarding the Expenditure of Redevelopment Agency Funds for Certain Public Improvements in the Japantown Redevelopment Project Area", were adopted. (10-0-1. Absent: Cortese.)

**3.7 Adoption of a resolution authorizing the City Manager to negotiate and execute a group life insurance agreement with The Standard Insurance Company for the period of July 1, 2007, through June 30, 2011, at a cost that is subject to monthly per participant premium rates as summarized in the report. CEQA: Not a Project. (Human Resources)**

Documents Filed: Memorandum from Director of Human Resources Mark Danaj, dated May 29, 2007, recommendation adoption of a resolution.

Action: Upon motion by Council Member Williams, seconded by Council Member Campos and carried unanimously, [Resolution No. 73865](#), entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Group Life Insurance Agreement with the Standard Insurance Company”, was adopted. (10-0-1. Absent: Cortese.)

**3.8 Adoption of a resolution establishing a military veterans’ preference system for entry level hiring in accordance with Government Code Section 50088. CEQA: Not a Project. (Human Resources).**

Documents Filed: Memorandum from Director of Human Resources Mark Danaj, dated May 29, 2007, recommending adoption of a resolution.

Action: Upon motion by Council Member Williams, seconded by Council Member Campos and carried unanimously, [Resolution No. 73866](#), entitled: “A Resolution of the Council of the City of San José Establishing a Veterans’ Preference System Related to Employment with the City of San José”, was adopted. (10-0-1. Absent: Cortese.)

**3.9 Adoption of a Statement of Policy and City Council Questions related to the selection of a new Retirement Director as described in the memorandum, in compliance with City Charter Section 411.1. CEQA: Not a Project. (Human Resources)**

Documents Filed: Memorandum from Director of Human Resources Mark Danaj, dated May 29, 2007, recommending adoption of a Statement of Policy and City Council Questions.

Action: Upon motion by Council Member Chirco, seconded by Council Member Constant and carried unanimously, a Statement of Policy and City Council Questions related to the selection of a new Retirement Director as described in the memorandum, in compliance with City Charter Section 411.1 was approved. (11-0.)

## COMMUNITY & ECONOMIC DEVELOPMENT

### 4.2 Adoption of a resolution:

- (a) Authorizing the City Manager to negotiate and execute all contracts, amendments, agreements, leases, subleases and memos of understanding with contractors and vendors providing services to the Workforce Investment Act Program, including, but not limited to, novations or assignments, vendor training contracts, case management contracts, consultant contracts, memorandums of understanding required with Mandatory Partners for the use of One-Stop facilities, cities and the unincorporated area of Santa Clara County whose residents receive service under the WIA program for the period from July 1, 2007 to June 30, 2008 in accordance with procurement procedures and requirements mandated by the State and Federal governments for Workforce Investment Act grant recipients and with established City procurement procedures and requirements that have been reviewed and approved by the work2future (formerly known as Silicon Valley Workforce Investment Network or SVWIN) Executive Committee and/or the work2future Board.
- (b) Authorizing the City Manager to amend Council approved agreements that have been reviewed and approved by the work2future Executive Committee and/or the work2future Board so long as moneys have been appropriated and there is an unexpended and unencumbered balance of such appropriation sufficient to pay the expenses of the agreement.
- (c) Authorizing the City Manager to negotiate and execute all grants and sub-grant agreements for discretionary funding applied for and approved by the work2future Board for the period from July 1, 2007 to June 30, 2008.

**CEQA: Not a Project. (Economic Development)**

Documents Filed: Memorandum from Chief Development Officer Paul Krutko, dated May 21, 2007, recommending adoption of a resolution.

Action: Upon motion by Council Member Williams, seconded by Council Member Campos and carried unanimously, [Resolution No. 73867](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute Certain Agreements Related to the Workforce Investment Act (WIA) Program and Projects for FY 2007-2008", was adopted. (11-0.)

### 4.3 Public hearings on:

- (a) (1) Adoption of a resolution to approve the Hotel Business Improvement District budget report for Fiscal Year 2007-2008, as filed or as modified by the Council, and to levy the Hotel BID assessments for FY 2007-2008.
- (2) Approval of an amended and restated agreement with San José Hotels Inc. for the operation and administration of the Hotel BID.

**CEQA: Exempt, PP03-05-165.**

- 4.3 (b) **Adoption of a resolution to approve the Japantown Business Improvement District budget report for Fiscal Year 2007-2008, as filed or as modified by the Council, and to levy the Japantown BID assessments for FY 2007-2008. CEQA: Exempt, PP03-05-165. Council District 3. SNI: 13<sup>th</sup> Street.**
- (c) **Adoption of a resolution to approve the Willow Glen Business Improvement District budget report for Fiscal Year 2007-2008, as filed or as modified by Council and to levy the Willow Glen BID assessment for FY 2007-2008. CEQA: Exempt, PP03-05-165. Council District 6.**
- (d) **Adoption of a resolution to approve the Downtown Business Improvement District budget report for Fiscal Year 2007-2008, as filed or as modified by Council and to levy the Downtown BID assessment for FY 2007-2008. CEQA: Exempt, PP03-05-165. Council District 3. SNI: St. James Square/ University/Delmas Park/Burbank/DelMonte.**
- (Economic Development)**

Documents Filed: (1) Memoranda from Chief Development Officer Paul Krutko, all four dated May 29, 2007, recommending adoption of four resolutions. (2) Four Proofs of Publications of Notices of Public Hearings, all four executed on June 8, 2007, submitted by the City Clerk.

City Clerk Lee Price stated that no written protests have been received from the Hotel, Willow Glen and Downtown BIDs and written protests were received from the Japantown BID, however, they are against an expansion that the BID Advisory Board never brought forward for Council consideration.

Public Comments: Mayor Reed opened the public hearing. Jack Estill, Work2Future, spoke in favor of the Staff recommendations. Mayor Reed closed the public hearing.

Action: Upon motion by Council Member Liccardo, seconded Council Member Oliverio and carried unanimously, [Resolution No. 73868](#), entitled: "A Resolution of the Council of the City of San José Approving the Budget Report of the Hotel Business Improvement District for Fiscal Year 2007-2008 and Levying Assessments in the Bid for Fiscal Year 2007-2008"; [Resolution No. 73869](#), entitled: "A Resolution of the Council of the City of San José Approving the Budget Report of the Japantown Business Improvement District for Fiscal Year 2007-2008 and Levying Assessments in the Bid for Fiscal Year 2007-2008"; [Resolution No. 73870](#), entitled: "A Resolution of the Council of the City of San José Approving the Budget Report of the Willow Glen Business Improvement District for Fiscal Year 2007-2008 and Levying Assessments in the Bid for Fiscal Year 2007-2008" and [Resolution No. 73871](#), entitled: "A Resolution of the Council of the City of San José Approving the Budget Report of the Downtown Business Improvement District for Fiscal Year 2007-2008 and Levying Assessments in the Bid for Fiscal Year 2007-2008"; adopted and an amended and restated agreement with San José Hotels Inc. for the operation and administration of the Hotel BID was approved. (11-0.)

- 4.4 Adoption of a resolution authorizing the City Manager to execute future Economic Development Catalyst Program (EDCP) Stock Purchase Agreements and related agreements that do not include delivery of or access to confidential financial, strategic, or operational portfolio company data other than the information provided by Pacific Community Management, Inc., the City's investment manager for the City's EDCP. CEQA: Not a Project. (Economic Development)  
[Community and Economic Development Committee 5/24/07 – Item (e)]  
[Deferred from 6/12/07 – Item 4.1(e)]**

Documents Filed: Memorandum from Chief Development Officer Paul Krutko, dated May 29, 2007, recommending adoption of a resolution.

Chief Development Officer, City Manager's Office, Paul Krutko responded to Council questions.

Public Comments: Eduardo Roll, Pacific Community Venture and Ross Signorino spoke in favor of the Staff recommendation.

Action: Upon motion by Council Member Constant, seconded by Council Member Williams and carried, [Resolution No. 73872](#) was adopted, with Staff directed to report back to the Economic Development Committee semi-annually. (9-2. Noes: Cortese, Liccardo.)

**4.5 Adoption of resolution.**

- (a) **Approving a funding commitment of \$4,942,845, composed of \$4,547,417 of HOME funds and \$395,428 of Low & Moderate Income Housing Funds (20% Housing Funds), to First Community Housing, or its designee, for the acquisition and rehabilitation of the Curtner Gardens Inn SRO project located at the Northwest corner of Curtner and Canoas Gardens Avenues.**
- (b) **Finding that the use of 20% Housing Funds for the Curtner Gardens Inn SRO project is of benefit to the Redevelopment Project Areas of San José.**
- CEQA: Exempt. Council District 6. (Housing)**

Documents Filed: Memorandum from Director of Housing Leslye Krutko, dated May 25, 2007, recommending adoption of a resolution.

Action: Upon motion by Council Member Oliverio, seconded by Council Member Liccardo and carried unanimously, [Resolution No.73873](#), entitled: "A Resolution of the Council of the City of San José (a) Approving a Funding Commitment of \$4,942,845 Composed of \$4,547,417 of Home Funds and \$395,428.00 of Low and Moderate Income Housing Funds to First Community Housing, or Its Designee, for the Acquisition and Rehabilitation of the Curtner Gardens Inn SRO Project Located at the Northeast Corner of Curtner and Canoas Gardens Avenues and (b) Finding that the Use of 20% Housing Funds for the Curtner Gardens Inn SRO Project is of Benefit to the Redevelopment Project Areas of San José", was adopted. (11-0.)



- 4.6 Discussion and action to approve the Five-Year Housing Investment Plan for Fiscal Years 2007-2008 through 2011-2012 and approval of the following recommended policy changes:**
- (a) Amend the Mixed Income Housing Policy to include language that states that to the extent feasible, the City encourages extremely low-income units mixed effectively among other low-income and market rate units;**
  - (b) Establish a leveraging goal of 2.5:1 for affordable housing developments.**
  - (c) Adopting a strategic policy that emphasizes the City's affirmative efforts to target housing for those most in need, including extremely-low income households and change the City's "85/15 Policy" to include deeper affordability levels within the 85%, as follows: 30% extremely-low income, 30% very-low income, and 25% low-income.**
  - (d) Pilot a rental assistance program that would provide move in assistance to teachers in partnership with the Silicon Valley Leadership Group and school districts.**
  - (e) Expand the City's Inclusionary Policy to include the following:**
    - (1) Provide flexibility to developers to pay in-lieu or transfer land to non-profit developers to fulfill inclusionary requirements;**
    - (2) Adjust current in-lieu fees to reflect the actual costs of providing affordable units;**
    - (3) Deepen the required affordability levels under the inclusionary housing policy for rental developers;**
    - (4) Institute a program to entice developers in the Downtown Core Area to build high-rise housing; and**
    - (5) Consider expansion of the City of San José's Inclusionary Housing Policy to include large special planning areas and conversions of planned land use from industrial to residential.**

**CEQA: Not a Project. (Housing)**

**[Community and Economic Development Committee 5/24/07 – Item (f)]**

Documents Filed: (1) Memorandum from Director of Housing Leslye Krutko, dated May 30, 2007, recommending that Council discuss and take action to approve the Five Year Housing Investment Plan for Fiscal Years 2007-08 through 2011-2012. (2) Letter from Tom Fink, Chair, Housing and Community Development Advisory Commission, dated June 18, 2007, expressing support for the Staff recommendations. (3) Letter from CHAM Deliverance Ministry, dated June 19, 2007, expressing support for the Staff recommendations.

Director of Housing Leslye Krutko presented a brief overview of the City of San José's Inclusionary Housing Policy.

Public Comments: Speaking in favor of the Staff recommendations were Dixie Baus, Kerri Hamilton, Sandy Perry, Community Homeless Alliance Ministry, Tom Fink, Housing Advisory Commission, Beverly Bryant, Home Builders Association and Chris Block.

Motion: Council Member Nguyen moved approval of the Staff recommendations. Vice Mayor Cortese seconded the motion.

#### 4.6 (Cont'd.)

Council discussion followed. Director of Housing Leslye Krutko responded to Council questions.

Council Member Campos requested that Staff report back to the Community and Economic Development Committee.

Action: On a call for the question, the motion carried unanimously, the Five-Year Housing Investment Plan for Fiscal Years 2007-2008 through 2011-2012 and the recommended policy changes as stated previously were approved, with Staff directed to report back to the Community and Economic Development Committee periodically. (11-0.)

- 4.7 (a) **Acceptance of status report on the Downtown Working Group and implementation of the Downtown Working Group Program. CEQA: Not a Project. (City Manager's Office)**
- (b) **Public Hearing and approval of the proposed ordinance to establish a limited pilot program to allow restaurants, bars and nightclubs within specified areas to remain open until 3:00 a.m. CEQA: Exempt, File No. PP07-117. Director of Planning, Building and Code Enforcement and the Planning Commission recommends approval (7-0-0). (Planning, Building and Code Enforcement)**

Documents Filed: (1) Memorandum from Deputy City Manager Dan McFadden, dated June 4, 2007, recommending acceptance of the status report. (2) Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated May 31, 2007, recommending approval of an ordinance. (3) Memorandum from the Planning Commission Secretary Joseph Horwedel, dated June 12, 2007, transmitting the Planning Commission recommendation. (4) Proof of Publication of Notice of Public Hearing, executed on June 6, 2007, submitted by the City Clerk.

Redevelopment Agency Deputy Director Norberto Duenas presented an overview of the Downtown Working Group Program.

Motion: Council Member Liccardo moved approval of the Staff recommendations. Council Member Constant seconded the motion.

Public Comments: Mayor Reed opened the public hearing. Speaking in favor of the Staff recommendations were Mauricio Mejia, Vault Ultra Lounge, Ed Pope, Ross Signorino, Robert Apgar and Scott Knies, San José Downtown Association.

Mayor Reed closed the public hearing.

#### **4.7 (Cont'd.)**

Action: On a call for the question, the motion carried unanimously, the Downtown Working Group Program Report was accepted and [Ordinance No. 28072](#), entitled: “An Ordinance of the City of San José Establishing a Limited Pilot Program to Allow Certain Public Eating Establishments, Drinking Establishments and/or Entertainment Establishments Located in an Area Generally Bounded by Saint John Street, 4<sup>th</sup> Street, San Carlos Street, Market Street, San Fernando Street and San Pedro Street and that are Legally Operating Until 2:00 a.m. the Ability to Remain in Operation Until 3:00 a.m. for a Period of Up to One Hundred Eight Days, All as More Particularly Described Herein”, was passed for publication. (10-0-1. Absent: Cortese.)

- 4.9 Consideration of a Historical Property Contract (California Mills Act) between the City of San José and the owners of the Arguello-Gosby House, City Landmark File No. HL06-156, located at 456 North Third Street on a 0.2-acre site in the R-M Multi-Family Zoning District (Angela Chumak, Owner). The proposed contract, which is available to owners of designated City Landmark buildings, would facilitate a property tax reassessment and partial tax relief in return for a binding agreement to rehabilitate and maintain the historical and architectural character of the property for at least a ten-year period. SNI: 13<sup>th</sup> Street. CEQA: Exempt. The Historic Landmarks Commission recommends approval (7-0-0).**

**MA07-003 – District 3**

**(Planning, Building and Code Enforcement)**

Action: See Item 2.31 for Council action taken.

- 4.10 Consideration of a Historical Property Contract (California Mills Act) between the City of San José and the owner of the Wilder-Hait House, City Landmark File No. HL04-150, located at 1190 Emory Street on a 1.2-acre site in the R-1-8 Single Family Residence Zoning District (Alex and Cynthia Clerk, Owners). The proposed contract, which is available to owners of designated City Landmark buildings, would facilitate a property tax reassessment and partial tax relief in return for a binding agreement to rehabilitate and maintain the historical and architectural character of the property for at least a ten-year period. CEQA: Exempt. The Historic Landmarks Commission recommends approval (7-0-0).**

**MA07-001 – District 6**

**(Planning, Building and Code Enforcement)**

Action: See Item 2.32 for Council action taken.

- 4.11 Adoption of a resolution authorizing the City Manager to negotiate and execute a Memorandum of Understanding between the City of San José and the City of Santa Clara Regarding Planning, Permit Approval and Inspection Responsibilities for the Contemplated Expansion of the Valley Fair Mall. CEQA: Resolution No. 73809. Council District 6. (Planning, Building and Code Enforcement)**

Action: See Item 2.33 for Council Action.

- 4.12 (a) **Approval to take the following actions in the Evergreen Specific Plan Fund:**
- (1) **Declaring \$11,063,710 in contingent lien proceeds as un-obligated in the Evergreen Specific Plan Fund; and**
  - (2) **Approval of a reimbursement in the amount of \$11,063,710 to the Evergreen Specific Plan Property Ownership Partnership.**

**CEQA: Not a Project. Council District 8. (Public Works)**

- (b) **Adoption of the following Appropriation Ordinance and Funding Sources Resolution amendments in the Evergreen Specific Plan Fund:**
- (1) **Establish a Beginning Fund Balance estimate in the Evergreen Specific Plan Fund in the amount of \$11,063,710.**
  - (2) **Establish an appropriation for the Reimbursement to the Evergreen Specific Plan Property Ownership Partnership in the amount of \$11,063,710.**

**CEQA: Not a Project. (City Manager's Office)**

Documents Filed: (1) Memorandum from Director of Public Works Katy Allen, dated May 29, 2007, recommending (a) above. (2) Supplemental memorandum from Budget Director Larry Lisenbee, dated June 8, 2007, transmitting the appropriation language which was not included in the original memorandum.

Action: Upon motion by Vice Mayor Cortese, seconded by Council Member Campos and carried unanimously, the \$11,063,710 in contingent lien proceeds as un-obligated in the Evergreen Specific Plan Fund was declared and reimbursement in the amount of \$11,063,710 to the Evergreen Specific Plan Property Ownership Partnership was approved; [Ordinance No. 28073](#), entitled: "An Ordinance of the City of San José Amending Ordinance No. 27801 to Appropriate Monies in the Evergreen Specific Plan Fund for the Reimbursement to the Evergreen Specific Plan Fund Property Ownership Partnership; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption" and [Resolution No. 73875](#), entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 73265 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2006-2007 to Adjust Revenues in the Evergreen Specific Plan Fund", were adopted. (11-0.)

## **NEIGHBORHOOD SERVICES**

- 5.3 **Acceptance of the Parks, Recreation and Neighborhood Services response to the 2006-07 Santa Clara County Civil Grand Jury's report entitled "The Ten-Year Plan to Advance the Well-Being of Senior Citizens Falls Short of Its Goal" issued on April 23, 2007. CEQA: Not a Project. (Parks, Recreation and Neighborhood Services)**

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated May 29, 2007, recommending acceptance of the report.

### **5.3 (Cont'd.)**

Action: Upon motion by Council Member Campos, seconded by Council Member Chirco and carried unanimously the Parks, Recreation and Neighborhood Services response to the 2006-07 Santa Clara County Civil Grand Jury's report entitled "The Ten-Year Plan to Advance the Well-Being of Senior Citizens Falls Short of Its Goal" issued on April 23, 2007 was accepted. (11-0.)

## **TRANSPORTATION & AVIATION SERVICES**

### **6.1 Report of the Transportation and Environment Committee – June 4, 2007 Council Member Williams, Chair**

Documents Filed: The Transportation and Environment Committee Report dated June 4, 2007.

- (a) Status Report on Implementation of the Taxicab Service Model. Attachment: Memorandum from Director of Transportation James Helmer, dated May 29, 2007, recommending acceptance of the report.

Deferred to Fall 2007.

- (b) Review of Performance Measure Reporting. Attachment: Memorandum from Chief Deputy City Manager Kay Winer, dated May 29, 2007, recommending acceptance of the report.

The Committee accepted the Staff report.

- (c) Recycled Water Master Plan and City-District Collaboration and Funding for Infrastructure

Deferred to August 2007.

- (d) Citywide Trail Completion Status Report. Attachment: Memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated May 14, 2007, recommending acceptance of the report.

The Committee accepted the Staff report.

- (e) Status Report on Tree Preservation. Attachment: Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated May 29, 2007, recommending acceptance of the report.

The Committee accepted the Staff report.

**6.1 Report of the Transportation and Environment Committee – June 4, 2007 (Cont'd.)  
Council Member Williams, Chair**

- (f) Private Development Incentives for Green Building. Attachment: Memorandum from Chief Development Officer Paul Krutko and Director of Planning, Building and Code Enforcement Joseph Horwedel, dated May 22, 2007, recommending acceptance of the report.

The Committee accepted the Staff report.

- (g) Update on the Urban Environmental Accords

Deferred to Fall 2007.

- (h) State and Federal Legislation Quarterly Report. Attachment: Memorandum from Director Intergovernmental Relations Betsy Shotwell, dated May 23, 2007, recommending acceptance of the report.

The Committee accepted the Staff report.

- (i) Update on Key Aspects of Recycle Plus Transition

Dropped by the Administration.

- (j) Verbal Update on Status of Aviation Safeguard Discussions

The Committee accepted the Staff report and requested another update at the next Committee meeting that is scheduled to occur in the Fall.

- (j) Oral Petitions - None were presented.

- (k) Adjournment - The meeting was adjourned at 3:40 p.m.

Action: Upon motion by Council Member Williams, seconded by Council Member Pyle and carried unanimously, the Transportation and Environment Committee Report and the actions of June 4, 2007 were accepted. (11-0.)

- 6.2**
- (a) Reject the only proposal for lease and maintenance of compressed natural gas (CNG) shuttle buses for the Norman Y. Mineta San José International Airport.**
  - (b) Adoption of a resolution authorizing the Director of Finance to:**
    - (1) Negotiate and execute an agreement with Penske Truck Leasing Co. L.P. for a seven year lease and maintenance of fourteen CNG buses with a not to exceed compensation of \$1,900,000 for the first year of the contract and subject to annual Consumer Price Index adjustments and appropriation of funds.**
    - (2) Negotiate and execute amendments to the agreement to add additional CNG buses as required for successful operation of the airport subject to appropriation of funds.**

**CEQA: Resolution Nos. 67380 and 71451, File No. PP07-059. (Finance)**

Documents Filed: Memorandum from Director of Finance Scott Johnson, dated May 29, 2007, recommending rejection of the only proposal and adoption of a resolution.

Action: Upon motion by Council Member Chirco, seconded by Council Member Liccardo and carried unanimously, the only proposal for lease and maintenance of compressed natural gas shuttle buses for the Norman Y. Mineta San José International Airport was rejected and [Resolution No. 73876](#), entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Finance to Negotiate and Execute an Agreement with Penske Truck Leasing Co., L.P. for Lease and Maintenance of Compressed Natural Gas Shuttle Buses for Norman Y. Mineta San José International Airport”, was adopted. (11-0.)

- 6.3**
- Adoption of a resolution authorizing the City Manager to:**
- (a) Negotiate and execute the sixth amendment to the agreement for Airport Bus Service with the Santa Clara County Valley Transportation Authority (VTA), extending the term from July 1, 2007 to June 30, 2010, with the option for the City to extend the agreement for up to two (2) additional two-year terms, with first year compensation to VTA in an amount not to exceed \$1,400,000 and with compensation for subsequent years subject to adjustment based upon the Consumer Price Index, and subject to appropriation of funds for each year.**
  - (b) Exercise up to two (2) two-year options to extend the agreement, subject to appropriation of funds for each option year.**

**CEQA: Resolution Nos. 67380 and 71451, File No. PP07-110. (Airport)**

Action: See Item 2.34 for Council Action.

- 6.4**
- Report on bids and award of contract for the Slurry Seal 2007 project to the low bidder, Graham Contractors, Inc. in the amount of \$1,974,880.00 and approval of a five percent (5%) contingency in the amount of \$99,000. CEQA: Exempt, File No. PP04-039. (Transportation)**

Action: See Item 2.35 for Council Action.



## ENVIRONMENTAL & UTILITY SERVICES

- 7.1 (a) Acceptance of report on the proposed Urban EcoPark Master Plan for the site of the former Las Plumas warehouse;
- (b) Authorize staff to issue a Request for Proposals in June 2007 to identify potential tenants for facility programming; and
- (c) Direction to staff to report to the Transportation & Environment Committee in Fall 2007 with recommendations for facility tenants and a plan for facility programming and development, including cost estimates, timeline, and financing.

**CEQA: Not a Project. (Environmental Services)**

Documents Filed: Memorandum from Director of Environmental Services John Stufflebean, dated May 29, 2007, recommending acceptance of the report.

Action: Upon motion by Council Member Chirco, seconded by Council Member Liccardo and carried unanimously, the report on the proposed Urban EcoPark Master Plan for the site of the former Las Plumas warehouse was accepted; Staff was authorized to issue a Request for Proposals in June 2007 to identify potential tenants for facility programming and Staff was directed to report to the Transportation & Environment Committee in Fall 2007 with recommendations for facility tenants and a plan for facility programming and development, including cost estimates, timeline, and financing. (11-0.)

- 7.2 (a) Approval of the first amendment to the agency agreement for Countywide AB 939 Implementation Fee with the County of Santa Clara to establish the Implementation Fee for FY 2006-07 at \$3.72, for FY 2007-08 at \$3.55, and for FY 2008-09 at \$3.35.
- (b) Approval of the first amendment to the agency agreement with the County of Santa Clara Countywide Household Hazardous Waste Collection Program for FY 2006-07 to increase the City's contribution by \$50,000 for a total cost not to exceed \$50,000.
- (c) Approval of the second amendment to the Agency Agreement with the County of Santa Clara Countywide Household Hazardous Waste Collection Program for the term July 1, 2007 through June 30, 2009, at no cost to the City of San José.

**CEQA: Not a Project. (Environmental Services)**

Documents Filed: Memorandum from Director of Environmental Services John Stufflebean, dated May 21, 2007, recommending approval of the three agreements.

Action: Upon motion by Council Member Chirco, seconded by Council Member Liccardo and carried unanimously, the first amendment to the agency agreement for Countywide AB 939 Implementation Fee with the County of Santa Clara; the first amendment to the agency agreement with the County of Santa Clara Countywide Household Hazardous Waste Collection Program and the second amendment to the Agency Agreement with the County of Santa Clara Countywide Household Hazardous Waste Collection Program, were approved. (11-0.)

- 7.3**
- (a) Adoption of a resolution authorizing the City Manager to enter into an agreement with the San José Conservation Corps (SJCC) on an initial one-year basis to provide Special Event recycling services on behalf of the City at no cost to Special Event operators, with options for up to two one-year renewals;**
  - (b) Require Special Events operators as a condition of their City Permit to provide access to the City's Special Event recycling service provider at a level of service established by the Director of Environmental Services if the following conditions are met: the Special Event occurs on a City street or on a City-owned site, facility or public park; has an average daily attendance of at least 1,000 persons; and the City receives the initial permit application after August 1, 2007;**
  - (c) Adoption of policy direction which allows Special Events that meet the above criteria and use the City's recycling services to use the City's low cost disposal under the City's agreement with Newby Island Landfill; and**
  - (d) Add to the Fall 2007 Transportation and Environment (TE) Committee work plan an evaluation of current City Special Event and Venue recycling services and options for service improvements.**

**CEQA: Exempt, File No. PP07-097. (Environmental Services)**

Documents Filed: Memorandum from Director of Environmental Services John Stufflebean, dated May 29, 2007, recommending adoption of a resolution and other special event requirements as described above.

Action: Upon motion by Council Member Chirco, seconded by Council Member Liccardo and carried unanimously, [Resolution No. 73877](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement with the San José Conservation Corps for Recycling Services at Special Events", was adopted; policy direction which allows Special Events that meet the above criteria as described in 7.3(b) and use the City's recycling services to use the City's low cost disposal under the City's agreement with Newby Island Landfill was approved; and Staff was requested to add an evaluation of current City Special Event and Venue recycling services and options for service improvements to the Fall 2007 Transportation and Environment Committee work plan. (11-0.)

- 7.4**
- (a) Adoption of a resolution authorizing the City Manager to negotiate and execute an Agreement with San José Unified School District (SJUSD) to allow for reimbursement of Commercial Solid Waste Franchise Fees paid by SJUSD for an initial term of July 1, 2007, through June 30, 2009, and to authorize the Director of Environmental Services to exercise options for up to three one-year extensions.**
  - (b) Adoption of a resolution amending the 2007-2008 Schedule of Fees and Charges to set the Source Reduction and Recycling (AB939) Fee at \$0.00 per cubic yard for solid waste generated by eligible public school districts in San José.**

**CEQA: Not a Project. (Environmental Services)**

## 7.4 (Cont'd.)

Documents Filed: Memorandum from Director of Environmental Services John Stufflebean, dated May 14, 2007, recommending adoption of resolutions.

Council Member Chirco requested that Staff collaborate with the School Districts on an ongoing basis.

Action: Upon motion by Council Member Chirco, seconded by Council Member Liccardo and carried unanimously, [Resolution No. 73878](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Waste Reduction and Recycling Cooperation Agreement with San José Unified School District" and [Resolution No. 73879](#), entitled: "A Resolution of the Council of the City of San José Amending the Schedule of Fees and Charges to Revise the Source Reduction and Recycling Fee for Eligible Public School Districts", were adopted, with Staff directed to collaborate with the School Districts on an ongoing basis. (11-0.)

## JOINT COUNCIL/REDEVELOPMENT AGENCY

- 9.1 Consideration of an ordinance amending Chapters 12.10 (Revolving Door) and 12.12 (Lobbyist) of Title 12 of the San José Municipal Code to implement changes requested by the City Council to (1) increase the revolving door prohibition from one to two years; (2) broaden the existing definition of a lobbyist by decreasing the hourly threshold to qualify as a lobbyist and aggregating the hours of individuals lobbying on behalf of the same organization; (3) create an exception for nonprofit organizations with Internal Revenue Code Section 501(c)(3) tax exempt status and certain business owners; (4) require disclosure of or prohibit compensation contingent on the result of a proposed governmental action; (5) require more specific disclosures in the lobbyist quarterly report; (6) impose interest on the quarterly report late filing fee; (7) require members of the City Council and Redevelopment Agency Board to disclose contacts with lobbyists; and (8) make other technical and clarifying changes. CEQA: Not a Project. (City Attorney's Office)**

Documents Filed: (1) Memorandum from City Attorney Richard Doyle, dated June 8, 2007, outlining the proposed lobbyist and revolving door ordinance amendments. (2) Supplemental memorandum from City Attorney Richard Doyle, dated June 18, 2007, transmitting changes for the proposed ordinance.

City Attorney Richard Doyle outlined the specifics of the proposed Lobbyist and Revolving Door Ordinance amendments and responded to Council questions.

Motion: Vice Mayor Cortese Council moved approval of the Staff recommendations. Member Constant seconded the motion.

Extensive Council discussion followed.

## 9.1 (Cont'd.)

Public Comments: Fred Hirsch objected to the ten hour threshold. Charlotte Casey, South Bay Coalition to Stop Torture, complained the exemption for 501(c)(3) was too narrow and that it should be expanded to non-official active neighborhood groups. Tom Armstrong, HMM Engineers, objected to the changes in the ordinance because they seem to conflict with State rules. Tony Alexander, UFCW 5, expressed concern regarding the proposed lobbyist ordinance changes.

Action: On a call for the question, the motion carried unanimously, Ordinance No. 28074, entitled: “An Ordinance of the City of San José Amending Title 12 of the San José Municipal Code to Amend Chapters 12.10 and 12.12 to Increase the Revolving Door Prohibition to Two Years; Amend the Definition of a Lobbyist; Create Exemptions to the Requirements of the Lobbyist Ordinance; Prohibit or Require Disclosure of Compensation Contingent on the Result of a Proposed Government Action; Require More Specific Disclosures in the Lobbyist Quarterly Report; Impose Interest on the Quarterly Report Late Filing Fee; Add a New Part to Require Elected Officials to Disclose Contacts with Lobbyists on Any Matter Before the City Council or Redevelopment Agency Board; and Make Other Technical and Clarifying Changes”, was passed for publication, as amended, with the City Attorney directed to return to Council in 60 days after implementation of the ordinance; The City Attorney was directed to return with the following: (1) When the Fair Political Practices Commission would deem an independent contractor a “consultant” subject to the disclosure and disqualification requirements of the Political Reform Act. (2) Whether contractors hired by the offices of the Mayor and Council should be subject to the revolving door prohibition. (3) If lobbyists who file state campaign disclosures should identify themselves by occupation as “lobbyists”. (11-0.)

## 9.2 (a) Adoption of a resolution:

- (1) **Approving the creation of a pilot program to improve the appearance of shopping centers outside of Redevelopment Areas to increase economic vitality, encourage job growth and generate additional sales tax revenue.**
  - (2) **Authorizing the City Manager to execute a Cooperation Agreement to allow City of San José General Funds to be used to compensate the San José Redevelopment Agency for staff time, design work, supplies and contractor services undertaken outside of Redevelopment Areas.**
- (b) **Adoption of an Agency resolution authorizing the Executive Director to execute a Cooperation Agreement to allow City of San José General Funds to be used to compensate the San José Redevelopment Agency for staff time, design work, supplies and contractor services undertaken outside of Redevelopment Areas.**

**CEQA: Not a Project. (City Manager’s Office/Redevelopment Agency)**

**[Community and Economic Development Committee referral 5/21/07 – Item 4.5(c)]**

**(Deferred from 6/12/07 – Item 9.5)**

## 9.2 (Cont'd.)

Documents Filed: Memorandum from City Manager Les White and Redevelopment Agency Executive Director Harry S. Mavrogenes, dated June 4, 2007, recommending adoption of resolutions.

Action: Dropped, per Administration.

- 9.4 (a) **Adoption of resolutions amending the “City of San José Policy on Implementation of the Inclusionary Housing Requirement of Health & Safety Code Section 33413(b)(2)” that applies to most redevelopment project areas to:**
- (1) **Require 8% very low-income units and 12% low-income units at 60% of area median income in rental projects; and**
  - (2) **To provide housing developers with other options to satisfy the Agency/City inclusionary housing requirements.**
  - (3) **To establish an incentive program for construction ready projects; and**
  - (4) **To establish an amnesty program for developers who are not in compliance with the Policy.**
- (b) **Adoption of a resolution amending the annual Fee Resolution to increase the in-lieu fees applicable to the Inclusionary Housing Policy, as follows:**
- (1) **\$17.00 per net square foot of market-rate housing with a maximum fee of \$85,500 for rental units, \$90,000 for for-sale units in low-rise condominium/stacked flat projects, \$120,000 for for-sale units in townhouse/row-house projects, \$200,000 for single-family detached units, and \$200,000 for high-rise units not located in the Downtown Core; and**
  - (b) (2) **\$8.50 per net square foot of market-rate high-rise units located in a Downtown High-Rise Incentive Area, up to a maximum fee of \$65,000 per unit.**

**CEQA: Not a Project. (City Manager’s Office/Redevelopment Agency)**

Documents Filed: (1) Memorandum from City Manager Les White and Redevelopment Agency Executive Director Harry S. Mavrogenes, dated June 1, 2007, recommending adoption of resolutions. (2) Supplemental memorandum from City Manager Les White and Redevelopment Agency Executive Director Harry S. Mavrogenes, dated June 14, 2007, transmitting amendments to the Inclusionary Housing Policy and Revised Inclusionary In-Lieu Fees”. (3) Two letters from the public dated June 19, 2007, regarding the changes to the City Inclusionary Housing Policy.

Deputy Executive Director Redevelopment Agency John Weis responded to Council questions. In response to an inquiry from Council Member Constant, he defined “pipeline projects” as those that are “construction ready”.

#### 9.4 (Cont'd.)

Public Comments: Speaking to the Staff recommendations were Tony Trieu, Eight Infinity Ventures, Mark Lazzarini, DAL Properties, Sean Morley, The Morley Brothers, Mike Walsh, AGI Capital, Chris Block and Kerri Hamilton.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Oliverio and carried unanimously, [Resolution No. 73880](#), entitled: “A Resolution of the Council of the City of San José Amending the City of San José Policy on the Implementation of the Inclusionary Housing Requirement of Health & Safety Code Section 33413(B)(2), that Applies to Most Redevelopment Project Areas, Establishing a Short Term In-Lieu Fee for a Period of Ninety (90) Days to Encourage Certain Construction Ready Projects and Establishing an Amnesty Program for a Period of Ninety (90) Days to Encourage Compliance with the Proposed New Policy”; [Resolution No. 73881](#), entitled: “A Resolution of the Council of the City of San José Amending the Schedule of Fees and Charges to Revise the Inclusionary Fees” and [Redevelopment Agency Resolution No. 5761](#), were adopted as amended, with Staff to return in 12 months to assess the fees outside the downtown core area is an incentive for the developers and the For-profit developers should not be held up by problems or issues the Non-profit developers are faced with. (10-0-1. Absent Cortese.)

#### NOTICE OF CITY ENGINEER’S PENDING DECISION ON FINAL MAPS

In accordance with Sec. 19.16.140d of the San José Municipal Code, this is notice of the City Engineer's pending decision on the following Final Maps:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/ Units</u>	<u>Type</u>	<u>Proposed Decision</u>
9889	NS Cherry Ave, 1000' W of Almaden Expressway	9	4970 Cherry Ave Owner, LLC	1 Lot/ 32 Units	Convert Apartments to Condos	Approve
9903	SE corner of Leigh & Foxworthy Avenues	9	LB/L III Edenbridge II San José, LLC	24 Lots/ 23 Units	SFD	Approve

#### OPEN FORUM

- (1) Paul Manley requested additional records relating to a Code compliance issue. He was directed to submit a request for records to the Office of the City Clerk.
- (2) Mark Trout expressed religious viewpoints.
- (3) Robert Apgar shared personal observations.
- (4) Ross Signorino spoke about the acquittal of Former Mayor Ron Gonzales.

#### ADJOURNMENT

The Council of the City of San José adjourned the afternoon session at 7:38 p.m.

## RECESS/RECONVENE

The City Council recessed at 7:38 p.m. from the afternoon Council Session and reconvened at 7:52 p.m. in the Council Chambers, City Hall.

Present: Council Members - Campos, Chirco, Chu Constant, Cortese, Liccardo, Nguyen, Oliverio, Pyle, Williams; Reed.

Absent: Council Members - None.

City Clerk Lee Price read the requests for continuance of the applications. Upon motion by Council Member Chirco, seconded by Council Member Oliverio, and carried unanimously, the below noted continuances and actions were taken as indicated. (11-0.)

## CEREMONIAL ITEMS

- 1.2 Presentation of a commendation to Angela Buenning Filo for her outstanding, painstaking and breathtaking work as preserved in “The Story of Silicon Valley,” a tribute to the prune orchards of South San José. (Cortese)**

Action: Mayor Reed and Vice Mayor Cortese recognized and commended Ms. Angela Buenning Filo for her excellent work in “The Story of Silicon Valley”, a tribute to the South San José prune orchards.

- 1.5 Presentation of a proclamation declaring the week of June 17 through June 23, 2007 as Architecture Week in San José. (Mayor)**

Action: Mayor Reed recognized the week of June 17, 2007 through June 23, 2007 as “Architecture Week” in San José

- 1.6 Presentation of a commendation to Helen Chapman, Chair of the Parks and Recreation Commission, for her six years of dedicated service to the City of San José. (Pyle/ Oliverio)  
(Rules Committee referral 6/13/07)**

Action: Mayor Reed and Council Members Pyle and Oliverio recognized and commended Ms. Helen Chapman for her six years of devoted service to the City of San José.

## PUBLIC HEARINGS ON CONSENT CALENDAR

Upon motion by Council Member Williams, seconded by Council Member Campos, and carried unanimously, the Public Hearings on Consent Calendar was approved and the below listed actions were taken as indicated. (11-0.)



- 11.1 (a) Consideration of a Director-initiated ordinance rezoning the real property located on the south side of Piercy Road, approximately 900 feet east of the intersection of Piercy Road and Tennant Avenue (725 Piercy Road) from Unincorporated County to OS – Open Space on a 1.1 gross acre site (Manuel J. Rios, Owner). CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval. No Planning commission action required.  
**C07-030 – District 2**

Action: See Item 11.5 for Council Action.

- (b) Consideration of an ordinance rezoning the real property located on the southeast corner of Highway 280 and South 11<sup>th</sup> Street (868 South 11<sup>th</sup> Street) from R-2 Two-Family Residence Zoning District to R-M Multiple Residence District on a 0.2 gross acre site (Margarita O. Delgado et al, Tamara Alabastro, Owners; Bruce Williams, Developer). SNI: Spartan/Keyes. CEQA: Resolution No. 65459.  
**C07-005 – District 3**

Action: Continued to August 14, 2007, per Administration.

- (c) Consideration of a Historical Property Contract (California Mills Act) between the City of San José and the owners of the Arguello-Gosby House, City Landmark file no. HL06-156, located at 456 North Third Street on a 0.2-acre site in the R-M multi-family zoning district (Angela Chumak, owner). The proposed contract, which is available to owners of designated City Landmark buildings, would facilitate a property tax reassessment and partial tax relief in return for a binding agreement to rehabilitate and maintain the historical and architectural character of the property for at least a ten-year period. SNI: 13<sup>th</sup> Street. CEQA: Exempt. The Historic Landmarks Commission recommends approval (7-0-0).  
**MA07-003 – District 3**

Action: See Item 2.31 for Council Action taken.

- (d) Consideration of an ordinance rezoning the real property located on the northwest corner of Capitol Avenue and Berryessa Road (13441 Berryessa Road) from the A(PD) Planned Development Zoning District to the CG – Commercial General Zoning District to allow commercial uses on the 0.79 gross acre site (BP West Coast Products LLC, Owner). CEQA: Exempt. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.  
**C07-023 – District 4**

**11.1 (d) (Cont'd.)**

Documents Filed: Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C07-023, dated June 4, 2007, recommending approval on the subject rezoning. (2) Proof of Publication of Notice of Public Hearing, executed on June 8, 2007, submitted by the City Clerk.

Public Comment: Mayor Reed opened the public hearing. There was no testimony from the floor. Mayor Reed closed the public hearing.

Action: The recommendation of the Planning Director was approved, and [Ordinance No. 28075](#), entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated on the Northwest Corner of Capitol Avenue and Berryessa Road (13441 Berryessa Road and 1121 North Capitol Avenue) to the CG Commercial Zoning District", was passed for publication. (11-0.)

- (e) **Consideration of an ordinance rezoning the real property located on the northwest corner of The Alameda and Stockton Avenue (155 Stockton Ave.) from the CG Commercial General Zoning District to the A(PD) Planned Development Zoning District to allow approximately 44,000 square foot commercial use (Whole Foods) on a 2.19 gross acres site (Alameda/Stockton, LLC, Owner; Whole Foods Market California, Inc., Developer). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and the Planning Commission recommends approval (6-0-1). PDC06-064 – District 6**

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated June 6, 2007, transmitting the Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC06-064, dated June 4, 2007, recommending approval on the subject rezoning. (2) Memorandum from Planning Commission Secretary Joseph Horwedel, dated June 12, 2007, transmitting the Planning Commission recommendation of approval. (3) Proof of Publication of Notice of Public Hearing, executed on June 1, 2007, submitted by the City Clerk.

Public Comment: Mayor Reed opened the public hearing. There was no testimony from the floor. Mayor Reed closed the public hearing.

Action: The recommendation of the Planning Commission and the Planning Director was approved, and [Ordinance No. 28076](#), entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated at the Northwest Corner of the Alameda and Stockton Avenue (155 Stockton Avenue) to A(PD) Planned Development Zoning District", was passed for publication. (11-0.)

- 11.1 (f) **Consideration of a Historical Property Contract (California Mills Act) between the City of San José and the owner of the Wilder-Hait House, City Landmark file no. HL04-150, located at 1190 Emory Street on a 1.2-acre site in the R-1-8 single-family residence zoning district (Alex and Cynthia Clerk, owners). The proposed contract, which is available to owners of designated City Landmark buildings, would facilitate a property tax reassessment and partial tax relief in return for a binding agreement to rehabilitate and maintain the historical and architectural character of the property for at least a ten-year period. CEQA: Exempt. The Historic Landmarks Commission recommends approval (7-0-0).  
MA07-001 – District 6**

Action: See Item 2.32 for Council Action taken.

- (g) **Consideration of an ordinance rezoning the real property located on the east side of Stone Avenue at the intersection with Cimino Street (1999 Stone Ave.) from LI Light Industrial District to the HI Heavy Industrial District on a 4.09 gross acres site (Anello and Vida Salvatore Trustee, Owner). CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.  
C07-022 – District 7**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C07-224, dated June 4, 2007, recommending approval on the subject rezoning. (2) (3) Proof of Publication of Notice of Public Hearing, executed on June 8, 2007, submitted by the City Clerk.

Public Comment: Mayor Reed opened the public hearing. There was no testimony from the floor. Mayor Reed closed the public hearing.

Action: The recommendation of the Planning Director was approved, and [Ordinance No. 28077](#), entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated on the east Side of Stone Avenue at the Intersection with Cimino Street (1999 Stone Avenue) to the HI Heavy Industrial Zoning District”, was passed for publication. (11-0.)

**END OF PUBLIC HEARINGS ON CONSENT CALENDAR**

## **PUBLIC HEARINGS**

- 11.2** Consideration of an ordinance rezoning the real property located on the southeast corner of Zanker Road and River Oaks Drive (3300 Zanker Road) from (IP) Industrial Park Zoning District to A(PD) Planned Development Zoning District to allow up to 1,900 single-family attached residences and 31,360 square feet for retail commercial, leasing office, and clubhouse uses on a 38.25 gross acre site (Irvine Apartment Communities, property owner and developer). CEQA: Resolution No. 72768 and addendum thereto.

**PDC06-038** – District 4

(Continued from 6/5/07 – Item 11.6)

Action: Continued to August 14, 2007, per Administration.

- 11.3** Consideration of an ordinance rezoning the real property located on the southeast corner of East Hedding Street and North 17<sup>th</sup> Street (890 North 17<sup>th</sup> Street) from the R-2 Two-Family Residence District to the R-2(PD) Planned Development Zoning District to allow 2 single family detached residences and 1 duplex that currently exist on the project site to facilitate future subdivision. No new construction is proposed (Louis Bini, Owner). SNI: 13<sup>th</sup> Street. CEQA: Exempt.

**PDC07-004** – District 3

Action: Continued to August 14, 2007, per Administration.

- 11.4** Consideration of an ordinance rezoning the real property located on both sides of Berryessa Road, between the Union Pacific Railroad Right of Way to the east and the Coyote Creek to the west, north of Mabury Road (1590 Berryessa Road) from A(PD) Planned Development Zoning District on 101-acres, IP-Industrial Park Zoning District on 19-acres and A-Agriculture Zoning District on .76-acres to A(PD) Planned Development Zoning District to allow up to 2,818 residential units and up to 365,622 square feet of commercial/industrial uses on an approximately 120 gross acre site (The Flea Market Inc, Owner/Developer). CEQA: Resolution to be adopted.

**PDC03-108** – District 4

Action: Continued to August 14, 2007, per Administration.

- 11.5** Consideration of a Director-initiated ordinance prezoning the real property located on the south side of Piercy Road, approximately 900 feet east of the intersection of Piercy Road and Tennant Avenue (725 Piercy Road) from Unincorporated County to OS – Open Space on a 1.1 gross acre site (Manuel J. Rios, Owner). CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval. No Planning commission action required.

**C07-030** – District 2

## 11.5 (Cont'd.)

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C07-030, dated May 30, 2007, recommending approval on the subject rezoning. (2) Proof of Publication of Notice of Public Hearing, executed on June 8, 2007, submitted by the City Clerk.

Public Comment: Mayor Reed opened the public hearing. There was no testimony from the floor. Mayor Reed closed the public hearing.

Action: Upon motion by Council Member Williams, seconded by Vice Mayor Cortese and carried unanimously, the recommendation of the Planning Director was approved, and [Ordinance No. 28078](#), entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated at the South Side of Piercy Road and Tennant Avenue (725 Piercy Road) to OS Open Space Zoning District", was passed for publication. (11-0.)

## JOINT COUNCIL/REDEVELOPMENT AGENCY

### 9.3 Conduct a public meeting to receive public comment on the formation of the Downtown Property and Business Improvement District (PBID). CEQA: Not a Project. Council District 3. (City Manager's Office/Redevelopment Agency)

Documents Filed: Memorandum from City Manager Les White and Redevelopment Agency Executive Director Harry S. Mavrogenes, dated June 7, 2007, recommending conducting a public meeting.

Public Comments: Mayor Reed opened the public hearing. There was no testimony from the floor. Mayor Reed closed the public hearing.

Action: No Council Action was taken.

## NEIGHBORHOOD SERVICES

### 5.2 (a) Consideration of staff analysis and response to direction from Council regarding changes to the Animal Ordinance.

Documents Filed: (1) Supplemental memorandum from Council Member Constant, dated June 18, 2007, recommending approval of an ordinance with clarifications. (2) Supplemental memorandum from City Attorney Richard Doyle, dated June 7, 2007, transmitting further clarification to the animal ordinance. (3) Supplemental memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated May 30, 2007, incorporating Staff's analysis and response from the City Council. (4) Twenty eight letters from the public regarding the changes to the animal ordinance.

## 5.2 (Cont'd.)

Council Member Constant outlined his memorandum dated June 18, 2007 recommending approval of an ordinance with additional clarifications to the Animal Ordinance.

Public Comments: Speaking in opposition to the Staff recommendations were Christian Hemingway, Carl Schroeder, Sandra Sims, Kathleen Flynn, DARES, Inc., Joy Baker, Debbie Howard, Linda Lea, Marwa Eizankaly, Ruby Kazi, McManis Faulkner & Morgan and Judy Jones, In Defense of Animals.

Speaking in favor of the Staff recommendations as amended by Council Member Constant were Christine Benninger, Laura Fulda, Humane Society of Silicon Valley, Patricia Watson, Northern California Terrier Association, Elizabeth Driedger, Mark McDonald, Gay Gale, Elliot Katz, DVM, Lorna Pusateri, Rosemary Mirko, Town Cats and Marie Sequeira.

Extensive Council discussion ensued regarding the Staff recommendations and Council direction to Staff.

Action on Item 5.2(a): On a call for the question, the motion carried and the consideration of staff analysis and response to direction from Council regarding changes to the Animal Ordinance was approved. (7-4. Noes: Constant, Cortese, Oliverio; Reed.)

- (b) **Consideration of an ordinance amending Title 7, the "Animal Ordinance" of the San José Municipal Code, in its entirety, to reflect changes requested by the City Council on May 1, 2007; to update existing animal related regulations to reflect current animal care and control practices on the proper and adequate care of animals, to revise livestock and small animal regulations, sale of animals, rabies vaccinations, and animal trapping; to define new terms; and to make other technical and conforming changes.**
- (c) **Approval of an ordinance amending Section 1.08.020 of Chapter 1.08 of Title 1 of the San José Municipal Code to update the list of animal infractions to include the new code sections.**

**CEQA: Not a Project. (Parks, Recreation and Neighborhood Services)**

Council discussion followed.

Motion: Council Member Constant moved approval of his memorandum dated June 18, 2007 changes with clarifications to the Animal Ordinance. Council Member Nguyen seconded the motion.

Council Member Chirco requested to amend the motion by replacing the word "Guardian" with "Owner/Guardian". Council Member Constant objected and would not accept the friendly amendment.

## 5.2 (b)(c) Cont'd.)

Substitute Motion: Council Member Chirco moved approval of the memorandum from Council Member Constant, with the change of replacing the word “Guardian” with “Owner/Guardian”. Council Member Liccardo seconded the motion.

Council Member Constant objected to the replacement of “Guardian” with “Owner/Guardian”. Mayor Reed objected to permitting outdoor pet fairs. The substitute motion passed (9-2. Noes: Constant; Reed.)

Action on Item 5.2(b)(c): On a call for the question the substitute motion on the main motion carried, [Ordinance No. 28079](#), entitled: “An Ordinance of the City of San José Amending Title 7 of the San José Municipal Code in Its Entirety, Relating to Animal Care and Control”, and [Ordinance No. 28080](#), entitled: “An Ordinance of the City of San José Amending Section 1.08.020 of Chapter 1.08 of Title 1 of the San José Municipal Code, which Lists all Infractions, To Update the List of Infractions”, as amended, were passed for publication; the memorandum from Council Member Constant, dated June 18, 2007 was approved, with the following clarifications: (1) Replace the term “Guardian” with “Owner/Guardian”. (Opposed: Constant; Reed.); (2) Section 7.10.200, do not include the term “service dog in training” in the definition of “service dog” or other references to “service dog” in the Title. (3) Section 7.20.570, amend the language to allow any person who harbors or has control, custody or possession of a dog that is participating in or preparing an animal exhibition to carry metal license tags for the purpose of identification while in public; the dog must have a microchip implant and this section would not exempt the dog from the leash law. (4) Section 7.40.020(D), modify language to allow only one litter per household per year, with no limit on the number of unsprayed females with the maximum number of cats or dogs allowed any dwelling unit. (5) Section 7.60.030, delete this section and amend Section 7.10.080 and 7.10.185. (6) Section 7.10.080, amend the definition of “Commercial Kennel” to provide that allowing parturition or rearing of more than two litters of animals per year per premises would require a commercial kennel permit and delete any references to the sale of litters for compensation as a basis for being included as a Commercial Kennel. (7) Section 7.10.185, amend the definition of “Private Kennels” to provide that allowing the parturition or rearing of two litters per year would require a private kennel permit. (8) Section 7.60.080, eliminate the requirement for a two hundred fifty foot distance between Private Kennel and any dwelling unit, apartment, motel or other building used for human habitation. (9) Section 7.40.040(B), add language that would clarify that a dog may be maintained on a leash of more than six feet but less than twenty feet when in a public park or public open space provided that the dog makes no physical contact with another person or animal without the consent of that person or the consent of the “Owner/Guardian”. Clarify that the six foot



## **5.2 (b)(c) Cont'd.)**

leash requirement applies to when a dog is at an event on public property or on a public sidewalk or public street. (10) Section 7.40.100, continue to require that animal events held in a City building or facility require approval by the City Manager. Animal Services will maintain a list of City facilities that are appropriate for animal events. (11) Add a cross reference to Section 1.16.010 specifying the time to appeal the final administrative hearing decisions where appropriate in Title 7. (8-3. Noes: Cortese, Oliverio; Reed.)

## **ADJOURNMENT**

The Council of the City of San José was adjourned at 9:09 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,

Lee Price, MMC  
City Clerk

smd/6-19-07MIN

Access the video, the agenda and related reports for this meeting by visiting the City's website at <http://www.sanjoseca.gov/clerk/agenda.asp> or <http://www.sanjoseca.gov/clerk/MeetingArchive.asp>

## APPENDIX A

### 3.6 FY 2007-2008 Budget

Documents filed: (1) Proposed Operating Budget Binder for Fiscal Year 2007-2008. (2) Proposed 2007-2008 Capital Budget and 2008-2012 Capital Improvement Program Binder. (3) Proposed 2007-2008 Fees and Charges Report. (4) Memorandum from Budget Director Lisenbee, dated May 4, 2007, providing the Proposed Fees and Charges Report for Fiscal Year 2007-2008.

**[A] FISCAL YEAR 2007-2008. BUDGET DOCUMENTS (BD) AND DOCUMENT LOG:** [1] Memorandum from Mayor's Policy Officer Director Armando Gomez, providing information on the 2007-2008 review process prior to Mayor's June Budget Message on June 1, 2007 and formal budget approval on June 12, 2007, with directions for the budget process and providing a budget document template. [2] Memorandum from Council Member Pyle, dated May 17, 2007 recommending approval of funding for police staffing. [3] Memorandum from Council Member Pyle, dated May 21, 2007, requesting approval of District 10 Office Carryover. [4] Memorandum from Council Members Pyle and Constant, dated May 17, 2007, recommending funding for Crime Prevention staffing. [5] Memorandum from Council Member Chirco, dated May 21, 2007, recommending supplemental funding for the Kirk Community Center Minor Improvement Project. [6] Memorandum from Council Member Chirco, dated May 21, 2007, recommending supplemental funding for a shopping center in the Camden Hillsdale Strong Neighborhood Expansion Area. [7] Memorandum from Council Member Chirco, dated May 21, 2007, requesting approval of Council District 9 Rebudget. [8] Memorandum from Council Member Chirco, dated May 21, 2007, recommending reinstatement of vacant Youth Outreach Worker II position for staffing of Youth Commission. [9] Memorandum from Council Member Nguyen, dated May 21, 2007, recommending approval of District 7 Office Budget Carry-over. [10] Memorandum from Council Member Nguyen, dated May 21, 2007, recommending funding for Southbay Children's Medical Center – Mobile Clinic. [11] Memorandum from Council Members Liccardo, Pyle and Constant, dated May 21, 2007, recommending funding for a Revenue Generating Position in the City Manager's Office. [12] Budget document unassigned. [13] Memorandum from Council Members Liccardo and Nguyen, dated May 21, 2007, recommending funding of a Crime Prevention Specialist (1.0 FTE). [14] Memorandum from Council Members Liccardo and Nguyen, dated May 21, 2007, recommending funding for EHC Life Builders for the Boccardo Reception Center. [15] Memorandum from Council Members Liccardo and Oliverio, dated May 21, 2007, recommending funding for the Children's Musical Theater (CMT) Relocation Compensation. [16] Memorandum from Council Member Campos, dated May 21, 2007, requesting approval of District 5 Office Carry-over. [17] Memorandum from Council Member Campos, dated May 21, 2007, recommending Rebuild of Fire Station 2. [18] Memorandum from Council Member Williams, dated May 21, 2007, requesting approval of District 2 Office Rebudget. [19] Memorandum from Council Member Williams, dated May 21, 2007, recommending funding for the Edenvale Community Center Phase I (Edenvale/Great Oaks SNI). [20] Memorandum from Council Member Williams, dated May 21, 2007, recommending funding for the Albertson Parkway Trail Construction.

### 3.6 (Cont'd.)

[21] Memorandum from Council Member Williams, dated May 21, 2007, recommending funding for the Bailey Avenue Preventive Sealing Treatment. [22] Memorandum from Council Member Williams, dated May 21, 2007, recommending funding for the Los Paseos Playgrounds. [23] Memorandum from Council Member Oliverio, dated May 21, 2007, recommending funding for a Private Benefit Independent District (PBID) for Lincoln Avenue. [24] Memorandum from Council Member Oliverio, dated May 14, 2007, recommending approval of funding for Lighting on Hedding Street (between Winchester and Monroe). [25] Memorandum from Council Member Liccardo, dated May 21, 2007, recommending funding for Community Based Organizations (CBO's). [26] Memorandum from Council Members Liccardo and Nguyen, dated May 21, 2007, recommending funding for the Homework Center Program. [27] Memorandum from Council Member Liccardo, dated May 22, 2007, recommending funding for the Strategic Support/Technology Reserve to implement a 90-day pilot project regarding the Downtown Entertainment Zone. [28] Memorandum from Vice Mayor Cortese, and Council Members Liccardo, Nguyen and Pyle, dated May 21, 2007, recommending entering into a partnership with the San José Education Foundation to jointly fund a 6-month pilot program to deliver the Homework Center Program. [29] Memorandum from Vice Mayor Cortese, dated May 21, 2007, recommending funding to re-institute in-house custodial service at City Hall for FY 08-09. [30] Memorandum from Vice Mayor Cortese, dated May 21, 2007, recommending City staff expedite a formal public/private partnership with PAL at no cost to General Fund. [31] Memorandum from Vice Mayor Cortese, dated May 21, 2007, recommending funding for the Northern California Green Challenge 07-09 Program. [32] Memorandum from Vice Mayor Cortese, dated May 21, 2007, recommending funding to reinstate the Sidewalk Repair Grant Program at the FY 06-07 funding level. [33] Memorandum from Vice Mayor Cortese, dated May 17, 2007, requesting approval of District 8 Office carryover. [34] Memorandum from Vice Mayor Cortese, dated May 21, 2007, recommending implementation of a grass roots street tree inventory in San José neighborhoods at no cost to General Fund. [35] Memorandum from Vice Mayor Cortese, dated May 21, 2007, recommending gap funding for PAL Stadium improvements to improve ADA accessibility. [36] Memorandum from Council Member Pyle, dated May 21, 2007, recommending funding for Office of Economic Development Staffing. [37] Memorandum from Vice Mayor Cortese and Council Members Constant and Pyle, dated May 21, 2007, recommending funding of three Motor Officers to replace the NASCOP enforcement program. [38] Memorandum from Council Member Constant, dated May 21, 2007, recommending funding for City Clerk Staffing. [39] Memorandum from Council Member Constant, dated May 21, 2007, recommending funding for the Shopping Center Improvement Program. [40] Memorandum from Council Member Constant, dated May 21, 2007, requesting approval of District 1 Office Rebudget. [41] Memorandum from Council Member Liccardo, dated May 21, 2007, requesting approval of District 3 Office Rebudget. [42] Memorandum from Council Member Oliverio, dated May 21, 2007, requesting approval of District 6 Office Rebudget.

### 3.6 (Cont'd.)

**[B] FISCAL YEAR 2007-2008 MANAGER'S BUDGET ADDENDA (MBA) AND DOCUMENT LOG:** [1] Memorandum from Budget Director Lisenbee, dated May 1, 2007, transmitting detailed agendas for the 2007-2008 Budget Study Sessions for the City's and Redevelopment Agency's Operating and City's Capital Budgets beginning on May 7, 2007. [2] Memorandum from Budget Director Larry Lisenbee, dated May 3, 2007, transmitting the 2007-2008 Proposed Operating and Capital Budgets and 2008-2012 Capital Improvement Program Replacement Pages. [3] Memorandum from Planning Commission Secretary Joseph Horwedel, dated May 4, 2007, transmitting the Planning Commission's recommendation on the proposed 2008-2012 Capital Improvement Program. [4] Memorandum from Chief Deputy City Manager Winer, dated May 8, 2007, transmitting History San José's request for additional funding. [5] Memorandum from General Services Director Peter Jensen, dated May 9, 2007, providing information and analysis regarding possible use of in-house custodial services for City Hall night shift. [6] Memorandum from Public Outreach Manager Tom Manheim, dated May 9, 2007, recommending Council consideration of amendments to the 2007-2008 Proposed Operating Budget regarding Sunshine Reform. [7] Memorandum from Budget Director Lisenbee, dated May 9, 2007, responding to Council Member Constant's request for further information as to specific location of position information in the 2007-2008 Proposed Operating Budget. [8] Memorandum from Deputy City Manager Dan McFadden, dated May 15, 2007, recommending Council approval of HP Pavilion Capital Repairs and Replacement Budgets for 2007-2008 as submitted by San José Arena Authority Board of Directors. [9] Memorandum from Deputy City Manager Ed Shikada, dated May 15, 2007, recommending Council action on LEED cost-analysis for pipeline projects. [10] Memorandum from City Manager Chief Development Officer Krutko, dated May 16, 2007, providing information and analysis regarding the criteria for use of the Economic Incentive Fund. [11] Memorandum from Budget Director Lisenbee, dated May 18, 2007, responding to request from Council Member Constant regarding summary information for each budgeted fund and the uses and restrictions of each fund. [12] Memorandum from Environmental Services Director (ESD) Stufflebean and General Services Director Jensen, dated May 23, 2007, responding to Mayor Reed's request at May 14, 2007 study session for information on cost savings realized from the City's energy conservation and efficiency projects. [13] Memorandum from Chief Information Officer Randall Murphy, dated May 25, 2007, recommending Council approve the technology spending plan and use of reserves. [14] Memorandum from Parks, Recreation and Neighborhood Services (PRNS) Director Albert Balagso, dated May 24, 2007, recommending City Manager remove community centers from facility re-use list. [15] Memorandum from PRNS Director Balagso, dated May 22, 2007, responding to Council Member Oliverio's inquiry into the cost of eleven new PRNS contracted maintenance positions. [16] Memorandum from Intergovernmental Director Betsy Shotwell, dated May 24, 2007, providing additional information on legislative changes to the traffic fine distribution formula as requested during the Transportation and Aviation CSA budget study session. [17] Memorandum from Police Chief Robert Davis, dated May 23, 2007, responding to Council Member Pyle's request

### 3.6 (Cont'd)

for a crime index statistics comparison. [18] Memorandum from Director of Public Works Katy Allen, dated May 23, 2007, recommending Council amend the Proposed 2007-2008 Fees and Charges Report to include hourly rates for Public Works Development Services fees. [19] Memorandum from Deputy City Manager Mark Linder, dated May 25, 2007, responding to Council Members' queries as to the success of the City's efforts to secure grants. [20] Memorandum from Human Resources Director Mark Danaj, dated May 23, 2007, responding to Council Member Constant's request for a Workers' Compensation utilization review. [21] Memorandum from PRNS Director Balagso, dated May 22, 2007, providing recommendations for Healthy Neighborhoods Venture funding. [22] Memorandum from Environmental Services Director Stufflebean, dated May 23, 2007, responding to Vice Mayor Cortese's request for breakdown of the proposed municipal water utility system rate increase and Rate Stabilization Reserve (RSR) fund balance. [23] Memorandum from Budget Director Lisenbee and ESD Director Stufflebean, dated May 22, 2007, providing replacement pages for VII-146 and VII-179 of the 2007-2008 Proposed Operating Budget to reflect updated Environmental Services performance measure information. [24] Memorandum from Budget Director Lisenbee and ESD Director Stufflebean, dated May 21, 2007, providing replacement pages for various sections of the Environmental Services 2007-2008 Proposed Operating Budget proposal. [25] Memorandum from City Manager Chief Development Officer Krutko, dated May 22, 2007, requesting approval for addition of Office of Cultural Affairs deputy director position. [26] Memorandum from PRNS Director Balagso, dated May 18, 2007, providing a status update as directed in the Mayor's 2007-2008 March Budget Message regarding development of parks maintenance partnership strategies. [27] Memorandum from Department of Transportation Director James Helmer, dated May 22, 2007, providing background and analysis of the NASCOP Warning Program. [28] Memorandum from Police Chief Davis and Interim Deputy City Manager McFadden, dated May 24, 2007, responding to the Mayor's March Budget Message and Mayor's 2007 Transition Committee Recommendation #6 regarding Entertainment Zone Cost Recovery. [29] Memorandum from Budget Director Lisenbee, dated May 29, 2007, providing replacement page to 2007-2008 Proposed Fees and Charges Report regarding lobbyist registration fee and delinquent quarterly report fee. [30] Memorandum from PRNS Director Balagso, dated May 23, 2007, providing background information on the Recreation E-Commerce System (RECS) project. [31] Memorandum from ESD Director Stufflebean, dated May 29, 2007, responding to Vice Mayor Cortese's Operating Budget study session request to provide a Municipal Water System rate comparison. [32] Memorandum from Department of Transportation Director Helmer, dated May 31, 2007, recommending Council approval of amendments to the 2007-2008 Proposed Operating Budget regarding school area parking compliance. [33] Memorandum from PRNS Director Balagso, dated May 25, 2007, providing information on Family Camp cost recovery. [34] Memorandum from Budget Director Lisenbee, dated June 1, 2007, providing updated information regarding 2007-2008 General Fund Revenue estimates. [35] Memorandum from PRNS Director Balagso, dated June 1, 2007, recommending Council approval of amendments to the 2007-2008 Proposed Capital Budget for City-Wide Aquatics. [36] Memorandum from Budget Director Lisenbee, dated June 1, 2007,

### 3.6 (Cont'd.)

recommending Council approval of amendments to the 2007-2008 Proposed Operating and Capital Budgets incorporating adjustments to a number of funds. [37] Memorandum from Budget Director Lisenbee, dated June 7, 2007, responding to the 2007-2008 Mayor's March Budget Message regarding identification of all elements of General Fund projected expenditures that are growing faster than projected revenues. [38] Memorandum from Budget Director Lisenbee, dated June 15, 2007, transmitting a set of revised Source and Use Statements for all funds where revisions to the published 2007-2008 Proposed Operating Capital Budgets have been recommended.

**[C] BUDGET CORRESPONDENCE FROM THE PUBLIC:** [1] Three Hundred Seven (307) letters from members from the public regarding objection to the proposed funding cut to Fire Station No. 2. [2] Five Hundred Eight (508) signatures from members of the public on a petition stating opposition to the proposed funding cut to Fire Station No. 2.

## **JOINT REDEVELOPMENT AGENCY BOARD**

The Joint Redevelopment Agency Board convened at 7:42 p.m. to consider Items 8.1 and 8.2 in a Joint Session.

- 8.1**
- (a)** Adoption of a resolution by the City Council approving the sale of Agency-owned property, generally located in the blocks bounded by Highway 87 to the west, West Saint James Street to the south, North Market Street to the east and a Union Pacific Railroad right of way to the north, to Green Valley Corporation/Barry Swenson Builder, accepting the 33433 Summary Report and Re-Use Valuation and finding that the sale of the property will assist in the elimination of blight, is consistent with the Implementation Plan for the Julian-Stockton Redevelopment Project Area and that the consideration for the property is not less than the fair reuse value for the proposed use, with the covenants and conditions and development costs authorized by the Disposition and Development Agreement (DDA).
  - (b)** Adoption of a resolution by the Redevelopment Agency Board approving a DDA with Green Valley Corporation (dba Barry Swenson Builder) and authorizing the Executive Director to execute the DDA and ancillary documents contemplated by the DDA, to close escrow subject to compliance with the terms of the DDA, and to negotiate and execute amendments to the DDA substantially in conformance with the intent of the DDA and as reasonably necessary to conform to lender requirements.
  - (c)** Adoption of a resolution by the City Council approving the sale of certain sites located on Agency-owned property, generally located in the blocks bounded by Highway 87 to the west, West Saint James Street to the south, North Market Street to the east and a Union Pacific Railroad right of way to the north The Olson Company, accepting the 33433 Summary Report and Re-Use Valuation, and finding that the sale of the property will assist in the elimination of blight, is consistent with the Implementation Plan for the Julian Stockton Redevelopment Project Area, and that the consideration for the property is not less than the fair reuse value for the proposed use, with the covenants and conditions and development costs authorized by the DDA.
  - (d)** Adoption of a resolution by the Redevelopment Agency Board approving a DDA with The Olson Company and authorizing the Executive Director to execute the DDA and ancillary documents contemplated by the DDA, to close escrow subject to compliance with the terms of the DDA, and to negotiate and execute amendments to the DDA substantially in conformance with the intent of the DDA and as reasonably necessary to conform to lender requirements.

**CEQA: Resolution No. 72170, Brandenburg Mixed Use Project/ North San Pedro Housing Sites Project File No. GPT03-03-01a and GPT03-03-01b. [JULIAN-STOCKTON]**

## 8.1 (Cont'd.)

Documents Filed: Memorandum from Redevelopment Agency Executive Director Harry S. Mavrogenes, dated June 5, 2007, recommending adoption of resolutions.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Oliverio and carried unanimously, [Resolution No. 73882](#), entitled: "A Resolution of the Council of the City of San José Approving the Sale of Certain Sites Located on Agency Owned Property, Generally Located in the Blocks Bounded by Highway 87 to the West, West Saint James Street to the South, North Market Street to the East and Union Pacific Railroad Right of Way to the North, to Green Valley Corporation (DBA Barry Swenson Builder), Accepting the 33433 Summary Report and Reuse Valuation and Finding that the Sale of the Property will Assist in the Elimination of Blight, is Consistent with the Implementation Plan for the Julian-Stockton Redevelopment Project Area, and that the Consideration for the Property is not Less Than the Fair Reuse Value for the Proposed Use, with the Covenants and Conditions and Development Costs Authorized by the Disposition and Development Agreement"; [Resolution No. 73883](#), entitled: "A Resolution of the Council of the City of San José Approving the Sale of Certain Sites Located on Agency Owned Property, Generally Located in the Blocks Bounded by Highway 87 to the West, West Saint James Street to the South, North Market Street to the East and a Union Pacific Railroad Right of Way to the North, to Olson Urban Housing LLC, Accepting the 33433 Summary Report and Reuse Valuation and Finding that the Sale of the Property will Assist in the Elimination of Blight, is Consistent with the Implementation Plan for the Julian-Stockton Redevelopment Project Area, and that the Consideration for the Property is not Less Than the Fair Reuse Value for the Proposed Use, with the Covenants and Conditions and Development Costs Authorized by the Disposition and Development Agreement"; [Redevelopment Agency Resolution Nos. 5762 and 5763](#), were adopted; and the development of housing in the North San Pedro area was approved with the following amendments: (1) That the aggregate number of units on the site equal or exceed 600 units, if the airport's height limits permit. (2) That Staff conduct a community meeting regarding neighborhood concerns with outreach to Vendome and Historic Hensley neighborhoods within 90 days. (11-0.)

- 8.2 (a) **Adoption of a resolution by the City Council making certain determinations, consistent with the Health and Safety Code Section 33445, as required by state law for Redevelopment Agency funding of the proposed improvements to Parkside Hall.**
- (b) **Adoption of a resolution by the Redevelopment Agency Board approving the adjustment to FY 2006-07 Adopted Capital Budget by adding \$100,000 to Tech Museum of Innovation project line in the Park Center Redevelopment Area and amending the FY 2006-07 Agency appropriations resolution.**
- CEQA: Exempt. File No. PP07-125. [PARK CENTER PLAZA]**

Documents Filed: Memorandum from Redevelopment Agency Executive Director Harry S. Mavrogenes, dated June 7, 2007, recommending adoption of resolutions.



## 8.2 (Cont'd.)

Action: Upon motion by Council Member Liccardo, seconded by Council Member Nguyen and carried unanimously, [Resolution No. 73884](#), entitled: “A Resolution of the Council of the City of San José Making Certain Determinations Required by State Law for the Expenditure of Redevelopment Agency Funds on Certain Public Improvements to Parkside Hall” and Redevelopment Agency Resolution No. 5764, were adopted. (11-0.)

The Council of the City of San José, and Redevelopment Agency Board adjourned at 7:51 p.m.